

# **Exhibit 167**

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

1-4

Page 1										Page 3																													
1	IN THE UNITED STATES DISTRICT COURT																																						
2	FOR THE DISTRICT OF MINNESOTA																																						
3																																							
4	SMARTMATIC USA CORP.,																																						
5	SMARTMATIC INTERNATIONAL																																						
6	HOLDING B.V. and SCO																																						
7	CORPORATION LIMITED,																																						
8																																							
9	Plaintiffs,																																						
10																																							
11	vs.	Case No. 0:22-cv-00098-WMW-JFD																																					
12																																							
13	MICHAEL J. LINDELL and MY																																						
14	PILLOW, INC.,																																						
15																																							
16	Defendants.																																						
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18																																							
19	VIDEOTAPED DEPOSITION OF BENJAMIN COTTON																																						
20	THURSDAY, AUGUST 8, 2024																																						
21	9:35 a.m. PST																																						
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1	BE IT REMEMBERED THAT, the videotaped deposition of																			1	APPEARANCES																		
2	BENJAMIN COTTON was reported by Mary C. Soldati,																			2																			
3	Registered Professional Reporter and Certified Shorthand																			3	Appearing on behalf of the Plaintiffs:																		
4	Reporter, on Thursday, August 8, 2024, commencing at the																			4	TIMOTHY M. FREY																		
5	hour of 9:35 a.m. PST, the proceedings being reported																			5	OLIVIA SULLIVAN																		
6	remotely from Portland, Oregon.																			6	BENESCH FRIEDLANDER COPLAN & ARNOFF																		
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9																				9	tfrey@beneschlaw.com																		
10																				10	osullivan@beneschlaw.com																		
11																				11																			
12																				12	Appearing on behalf of the Defendant:																		
13																				13	MCSWEENEY CYNKAR & KACHOUROFF, PLLC																		
14																				14	CHRISTOPHER KACHOUROFF																		
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16																				16	Woodbridge, Virginia 22192																		
17																				17	chris@mck-lawyers.com																		
18																				18																			
19																				19	ALSO PRESENT: Don Savoy, Videographer																		
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9																				9	EXHIBIT NO. DESCRIPTION PAGE NO.																		
10																				10																			
11																				11	Exhibit No. 705 Benjamin Cotton's																		
12																				12	Declaration																		
13																				13																			
14																				14	Exhibit No. 706 ATSEC Source Code Review																		
15																				15	Report Voting Solutions For All																		
16																				16	People Version 2.0.																		
17																				17	Report Date 2020-1-06																		
18																				18																			
19																				19	Exhibit No. 707 Court Order																		
20																				20																			
21																				21	Exhibit No. 708 County of Los Angeles																		
22																				22	VSAP Tally Voting System																		
23																				23	Staff Report																		
24																				24																			
25																				25	Exhibit No. 709 New York Times Article																		

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

5-8

Page 5	Page 7
<p>1</p> <p>2</p> <p>3       P R O C E E D I N G S</p> <p>4</p> <p>5       THE VIDEOGRAPHER: We are now</p> <p>6 on the record. The time is 9:35 a.m.</p> <p>7 Central time. Today is August the 8th</p> <p>8 of 2024.</p> <p>9       This begins the video</p> <p>10 conference deposition of Benjamin</p> <p>11 Cotton. The case is Smartmatic USA</p> <p>12 Corporation, et al, versus Lindell, et</p> <p>13 al.</p> <p>14       My name is Don Savoy. I am</p> <p>15 your remote videographer for today.</p> <p>16 The court reporter is Mary Soldati.</p> <p>17 We are representing Esquire Deposition</p> <p>18 Solutions.</p> <p>19       Counsel, please state your name</p> <p>20 and who you represent, after which the</p> <p>21 court reporter will swear in the</p> <p>22 witness.</p> <p>23       MR. FREY: Thank you. This is</p> <p>24 Tim Frey of Benesch Law Firm on behalf</p> <p>25 of the Plaintiffs.</p>	<p>1 live?</p> <p>2       A. I reside in Big Fork, Montana.</p> <p>3       Q. And are you currently located</p> <p>4 in Big Fork, Montana today?</p> <p>5       A. I am.</p> <p>6       Q. And since we're doing this</p> <p>7 virtually, I just have a couple additional</p> <p>8 procedural questions I need to go through.</p> <p>9       First of all, is there anyone</p> <p>10 else in the room with you today?</p> <p>11       A. There's no one else in the</p> <p>12 room.</p> <p>13       Q. And do you currently have your</p> <p>14 cell phone on you?</p> <p>15       A. I do. It's in a pouch on my</p> <p>16 side, not visible to me.</p> <p>17       Q. Okay. I just ask that you</p> <p>18 don't look at your cell phone while we're on</p> <p>19 the record for this deposition today.</p> <p>20       Is that okay?</p> <p>21       A. Yes.</p> <p>22       Q. And do you have any papers or</p> <p>23 other electronic documents with you today?</p> <p>24       A. I have two papers: One is a</p> <p>25 copy of my report, and the second is a copy</p>
Page 6	Page 8
<p>1       MS. SULLIVAN: Olivia Sullivan</p> <p>2 on behalf of Plaintiff Smartmatic,</p> <p>3 from Benesch.</p> <p>4       MR. KACHOUROFF: Christopher</p> <p>5 Kachouroff on behalf of the</p> <p>6 Defendants, Michael Lindell and</p> <p>7 MyPillow, Inc.</p> <p>8</p> <p>9       BENJAMIN COTTON,</p> <p>10 was thereupon produced as a witness and,</p> <p>11 after having been sworn on oath, was examined</p> <p>12 and testified as follows:</p> <p>13</p> <p>14       EXAMINATION</p> <p>15 BY MR. FREY:</p> <p>16       Q. Okay. Good morning, Mr.</p> <p>17 Cotton. We met just briefly on Zoom a second</p> <p>18 ago, but my name is Tim Frey. I represent</p> <p>19 the Plaintiffs in this matter, and I'll be</p> <p>20 asking you some questions today, okay?</p> <p>21       Can you please state and spell</p> <p>22 your name for the record?</p> <p>23       A. My name is Benjamin R. Cotton,</p> <p>24 C-O-T-O-N.</p> <p>25       Q. And Mr. Cotton, where do you</p>	<p>1 of the SEC source code review report.</p> <p>2       Q. And that's the report that you</p> <p>3 cite in your expert report, correct?</p> <p>4       A. Correct.</p> <p>5       Q. Okay. And we'll be introducing</p> <p>6 those as exhibits today here too, so then</p> <p>7 we'll also provide you with an electronic</p> <p>8 copy, but it's perfectly fine for you to</p> <p>9 reference those documents in front of you.</p> <p>10       Even though we're on Zoom here</p> <p>11 today and it's a little less formal, do you</p> <p>12 understand that you are still providing</p> <p>13 testimony here today under oath?</p> <p>14       A. I do.</p> <p>15       Q. And do you understand that your</p> <p>16 testimony is being recorded by a court</p> <p>17 reporter?</p> <p>18       A. I do.</p> <p>19       Q. Do you understand that your</p> <p>20 testimony is being videotaped?</p> <p>21       A. I do.</p> <p>22       Q. Do you understand that your</p> <p>23 testimony today could be shown to a jury in</p> <p>24 this case?</p> <p>25       A. I do.</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

9-12

<p style="text-align: right;">Page 9</p> <p>1 Q. Do you know any reason that  2 would prevent you from providing accurate  3 testimony today?  4 A. No.  5 Q. I'm just going to go over a few  6 more ground rules that are applicable to all  7 depositions. You may know these, but just to  8 get them on the record.  9 First, we have our court  10 reporter here taking down everything we say.  11 I ask that you allow me to finish my question  12 before you answer. And likewise, I'll wait  13 for you to answer before starting my  14 question.  15 Is that fair?  16 A. Yes.  17 Q. Similarly, do you understand  18 that all of your answers need to be verbal,  19 as opposed to, like, shaking your head or  20 nodding your head?  21 A. Yes, I do.  22 Q. And during my examination  23 today, Mr. Kachouff may object to a  24 question.  25 Do you understand that you're</p>	<p style="text-align: right;">Page 11</p> <p>1 Mr. Cotton, have you been  2 deposed before?  3 A. I have.  4 Q. And approximately how many  5 times have you been deposed before?  6 A. I don't have the exact number  7 in front of me, but probably on the order of  8 40 or 50 times.  9 Q. Okay. And are those  10 depositions typically as an expert witness?  11 A. Yes.  12 Q. What is the most recent time  13 that you have been deposed as an expert  14 witness?  15 A. I'd have to look at my records.  16 I just testified in a case in Casper,  17 Wyoming, and there were some interviews on  18 that. I'd have to check and make sure those  19 were actual depositions. And the testimony  20 was last week.  21 Q. Okay. And what's the nature of  22 that proceeding going on in Casper -- Casper,  23 Wyoming?  24 A. I was testifying in a criminal  25 matter in Casper.</p>
<p style="text-align: right;">Page 10</p> <p>1 required to answer my question even if he  2 objects, unless he instructs you not to do  3 so?  4 A. I do.  5 Q. And if I ask you a question  6 that you don't understand, will you please  7 let me know that you don't understand the  8 question?  9 A. Yes.  10 Q. So is it fair, then, that if I  11 ask a question and you answer it, I can  12 assume that you understood and answered to  13 the best of your ability?  14 A. Yes.  15 Q. And finally, we can take a  16 break at any time you like today. My only  17 request is that we don't take a break while a  18 question is pending.  19 Is that fair?  20 A. That's fair.  21 Q. So if you need a break at any  22 point, just let me know. I try to break on  23 the hour, just to give everyone -- the court  24 reporter, videographer, yourself -- you know,  25 a quick five minutes.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Have you ever or have you in  2 the last two years provided any deposition  3 testimony as an expert in civil litigation?  4 A. Yes.  5 Q. Please tell me about those  6 instances.  7 A. So in most of those cases --  8 cases, it has been election-related --  9 (Reporter clarification.)  10 THE WITNESS: Election-related,  11 so in Arizona and Michigan.  12 BY MR. FREY:  13 Q. And Arizona, is that the Kari  14 Lake litigation?  15 A. Yes. And there was also a  16 complaint with the Arizona Bar that I swore  17 under oath some testimony during that matter  18 as well.  19 Q. And what was the nature of the  20 complaint with the Arizona Bar?  21 A. I don't recall the exact  22 complaint, however it involved the attorneys  23 for Kari Lake.  24 Q. Okay. So which party were you  25 testifying on behalf of, then?</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**13-16**

<p style="text-align: right;">Page 13</p> <p>1 A. I was testifying on behalf of  2 Kurt Olsen and Andrew Parker.  3 Q. And Kurt Olsen and Andrew  4 Parker in that matter were the attorneys for  5 Kari Lake; is that right?  6 A. Correct.  7 Q. And a complaint had been lodged  8 by the Bar against Mr. Parker and Mr. Olsen;  9 is that right?  10 A. I'm not sure who lodged the  11 complaint.  12 Q. And what was the nature of your  13 testimony on behalf of those individuals?  14 A. My testimony hinged around the  15 cyber security weaknesses and current state  16 of the election systems in 2020.  17 Q. And was that in Maricopa County  18 in Arizona?  19 A. That is correct.  20 Q. And then you said, I believe,  21 you also provided deposition testimony in a  22 Michigan case; is that right?  23 A. That is correct.  24 Q. And is that the Antrim County  25 litigation?</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. And so was that as a fact  2 witness, as opposed to an expert witness?  3 A. Yes.  4 Q. When did you provide that  5 testimony?  6 A. I haven't provided that  7 particular testimony. The case has been  8 continued on a repeated basis.  9 Q. Okay. So there's the Arizona  10 case, there's the State of Michigan vs.  11 Stephanie Lambert, and also the Antrim County  12 litigation.  13 Any other county litigation in  14 which you've provided deposition testimony?  15 And I'll go back to -- since 2020.  16 A. I have provided declarations in  17 the State of Georgia as well.  18 Q. And were you deposed in the  19 State of Georgia case, in the Raffensperger  20 case?  21 A. Yes, the Curling v.  22 Raffensperger case.  23 Q. And what was the topic of your  24 deposition in the Curling v. Raffensperger  25 case?</p>
<p style="text-align: right;">Page 14</p> <p>1 A. I provided -- I did provide  2 depositions and sworn affidavits in the  3 Antrim case. But there's also a case, State  4 of Michigan versus Stephanie Lambert, in  5 which I was called as a witness.  6 Q. What is nature of the State of  7 Michigan versus Stephanie Lambert litigation?  8 A. I can tell you what my part in  9 it was, and that is the -- once again, the  10 state of the electoral systems as it pertains  11 to cyber security and findings of election  12 data.  13 Q. Do you know what the case  14 against Ms. Lambert -- you know, what the  15 claims are against Ms. Lambert?  16 A. I don't know exactly what they  17 are, but I believe they hinge around  18 potential unauthorized access to voting  19 systems.  20 Q. And did your testimony in that  21 case deal with the access to the voting  22 systems?  23 A. I have not testified to that  24 effect yet. However, the prosecution did  25 call me as a witness.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. It primarily hinged around  2 cyber security findings, based on my  3 examination of a Coffee County EMS server.  4 Q. And did that testimony in any  5 way have to do with whether or not there was  6 unauthorized access to the voting systems?  7 A. I was asked how I obtained  8 access to the EMS images.  9 Q. Any other instances of a  10 deposition or testimony you've given over the  11 last four years related to election security?  12 A. I believe that covers it.  13 Q. I want to talk a little bit  14 about how you became involved in this  15 particular litigation.  16 When were you initially  17 contacted to serve as an expert witness in  18 this case?  19 A. Specific to Smartmatic; is that  20 correct?  21 Q. Yeah, the Smartmatic versus  22 Lindell litigation.  23 A. Okay. As near as I recall, it  24 would have been the spring of '23. I was  25 asked by Andrew Parker to review some</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**17-20**

<p style="text-align: right;">Page 17</p> <p>1 documents pertaining to the LA County  2 election systems.  3 Q. And at the time Mr. Parker  4 asked you to review those documents, were you  5 given an assignment of what you are going to  6 be looking for, what he's going to ask you to  7 potentially opine on?  8 A. He asked me to pay particular  9 attention to, one, was the system certified  10 by the EAC; two, the vulnerability in  11 assessment reports by the SEC; three,  12 determine whether or not these systems could  13 be connected to the Internet via wireless or  14 via ethernet connections; determine whether  15 or not those connections were air-gapped or  16 part of the public Internet.  17 Q. Was your assignment to kind of  18 review those documents and make a  19 determination as to whether or not the -- you  20 know, you said whether or not they could be  21 connected to the Internet.  22 Were you asked to make a  23 determine as to whether or not they were  24 connected to the Internet?  25 A. If I could, from the documents.</p>	<p style="text-align: right;">Page 19</p> <p>1 report, through today, that you have not  2 chosen to inspect that ballot-marking device?  3 A. Well, I would say that that  4 question is a little bit misphrased. It's  5 not that I haven't chosen to. It's that, to  6 my knowledge, it was never an option to  7 examine it.  8 Q. Okay. So you were never told  9 that Smartmatic had offered the opportunity  10 to examine that device?  11 A. No. The last information that  12 I had surrounding this issue was they were  13 trying to work out some protocols, and then  14 those protocols were not acceptable to a  15 thorough examination of the system.  16 And at that point, I believe  17 Parker Daniels was removed from the case as  18 representation for Mr. Lindell. So I don't  19 know where that issue stands at this point.  20 Q. Going back, then, to your  21 initial retention in this case, at the time  22 Mr. Parker asked you to review the documents  23 related to LA County, were you already  24 working with Mr. Parker with respect to other  25 litigation?</p>
<p style="text-align: right;">Page 18</p> <p>1 At that particular time -- well, still, to my  2 knowledge -- there has been no system  3 actually produced by Smartmatic to -- to  4 actually examine to determine, you know, the  5 forensics artifacts that remain on that  6 system.  7 Q. Are you aware that Smartmatic  8 has offered the ability to examine a BMD  9 machine that is substantially similar to the  10 ones used in the November 2020 election?  11 A. Prior to the Parker Daniels law  12 firm exiting, there was discussion about that  13 being a possibility.  14 Q. Did you ever follow up to  15 determine whether or not to do that, to  16 perform that inspection?  17 A. I have not been provided that  18 opportunity yet.  19 Q. If you were provided the  20 opportunity, if it was offered, would you  21 take it?  22 A. I would.  23 Q. And do you have any  24 understanding as to why since, you know,  25 September of 2023 when you produced your</p>	<p style="text-align: right;">Page 20</p> <p>1 A. I was. I was working with Mr.  2 Parker with respect to the Arizona  3 litigation.  4 Q. And prior to the Arizona  5 litigation, had you ever worked with Mr.  6 Parker before?  7 A. I had not.  8 Q. How did you come to work with  9 Mr. Parker on the Arizona litigation?  10 A. I'm not 100 percent sure as to  11 what their thought process was. I had been  12 selected by the Arizona Senate to perform a  13 forensics audit of the Maricopa County  14 election systems in 2021.  15 And I believe that was the  16 impetus for them reaching out to me, is  17 because I did have that forensics knowledge  18 of the systems.  19 Q. Do you know a gentleman named  20 Patrick Byrne?  21 A. Yes. I have met Patrick Byrne.  22 Q. And how do you know Patrick  23 Byrne?  24 A. I was introduced to Patrick  25 Byrne through Stephanie Lambert.</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

21-24

<p style="text-align: right;">Page 21</p> <p>1 Q. And who is Stephanie Lambert?</p> <p>2 A. Stephanie Lambert is the</p> <p>3 attorney that engaged me for the Bailey v.</p> <p>4 Antrim County litigation.</p> <p>5 Q. And what was the nature of your</p> <p>6 interaction with Mr. Byrne?</p> <p>7 A. It was social. And I believe</p> <p>8 that Mr. Byrne was funding some of the</p> <p>9 efforts to assure voter integrity.</p> <p>10 Q. Have you discussed your</p> <p>11 engagement in this case with Mr. Byrne?</p> <p>12 A. I have not.</p> <p>13 Q. Do you know a Matt DePerno?</p> <p>14 A. I do.</p> <p>15 Q. Who is Matt DePerno?</p> <p>16 A. Matt DePerno is the other</p> <p>17 attorney who engaged me with respect to the</p> <p>18 Antrim County litigation.</p> <p>19 Q. Have you had any conversations</p> <p>20 with Matt DePerno regarding your engagement</p> <p>21 in this case?</p> <p>22 A. I have not.</p> <p>23 Q. Do you know a gentleman named</p> <p>24 Conan Hayes?</p> <p>25 A. Again, please?</p>	<p style="text-align: right;">Page 23</p> <p>1 A. I was asked to review some</p> <p>2 data. The data that I got was not</p> <p>3 satisfactory for me, so I did not participate</p> <p>4 in that event.</p> <p>5 Q. Was that data the alleged PCAP</p> <p>6 data -- P-C-A-P -- data that Mr. Lindell</p> <p>7 claimed to have regarding the stolen</p> <p>8 election?</p> <p>9 A. Yes. That data was supplied to</p> <p>10 me via Dennis Montgomery and Conan -- I</p> <p>11 apologize, I don't remember his last name --</p> <p>12 but this -- the Conan individual.</p> <p>13 Q. And you said that the data that</p> <p>14 you were asked to review was not satisfactory</p> <p>15 to you.</p> <p>16 What was not satisfactory about</p> <p>17 the data, in your opinion?</p> <p>18 A. It appeared incomplete, and the</p> <p>19 small subset of data that I was provided did</p> <p>20 not appear to contain election data.</p> <p>21 Q. Did you inform anyone of your</p> <p>22 conclusions regarding this -- the data that</p> <p>23 you were asked to review?</p> <p>24 A. I spoke to a gentleman by the</p> <p>25 name of Walden, I believe his last name was,</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Conan Hayes.</p> <p>2 A. I know of him. I do not know</p> <p>3 him personally.</p> <p>4 Q. Have you ever spoken with Mr.</p> <p>5 Hayes?</p> <p>6 A. I believe I have spoken to Mr.</p> <p>7 Hayes twice in the past.</p> <p>8 Q. And do you recall when about</p> <p>9 you spoke with Mr. Hayes?</p> <p>10 A. It was concerning the South</p> <p>11 Dakota symposium that Mr. Lindell put on.</p> <p>12 Q. And was that the cyber</p> <p>13 symposium in August of 2021?</p> <p>14 A. That sounds about right. I</p> <p>15 don't have the exact dates in front of me.</p> <p>16 Q. My understanding is, he does</p> <p>17 the symposium kind of each year, in the fall.</p> <p>18 And so I was just curious, you know, if it</p> <p>19 was three years ago, if it was this past, you</p> <p>20 know, 2023?</p> <p>21 A. It was the first one that he</p> <p>22 did.</p> <p>23 Q. Okay. And did you yourself</p> <p>24 have any involvement in that first cyber</p> <p>25 symposium?</p>	<p style="text-align: right;">Page 24</p> <p>1 who was kind of shepherding that process.</p> <p>2 And I explained my concerns to him.</p> <p>3 Q. Have you ever, since that time,</p> <p>4 been asked to review any data provided by Mr.</p> <p>5 Dennis Montgomery?</p> <p>6 A. I have. Some --</p> <p>7 (Cross talk.)</p> <p>8 BY MR. FREY:</p> <p>9 Q. Go ahead. Go ahead.</p> <p>10 A. Subsequently, approximately</p> <p>11 about a year later, I was asked to take a</p> <p>12 look at another set of PCAP data. And once</p> <p>13 again, my analysis of the PCAP data was that</p> <p>14 it was not sufficient to do a form analysis</p> <p>15 on for the purposes that they wanted me to do</p> <p>16 that.</p> <p>17 Q. And were you asked to perform</p> <p>18 that analysis as part of your role in this</p> <p>19 case?</p> <p>20 A. No.</p> <p>21 Q. Who asked you to perform that</p> <p>22 analysis?</p> <p>23 A. I believe that was Kurt Olsen.</p> <p>24 Q. Did you inform Mr. Olsen that</p> <p>25 the data was insufficient to complete the</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**  
**25-28**

<p style="text-align: right;">Page 25</p> <p>1 analysis you were asked to complete?</p> <p>2 A. Yes.</p> <p>3 Q. You mentioned Mr. Montgomery.</p> <p>4 Do you know Mr. Dennis</p> <p>5 Montgomery?</p> <p>6 A. I do not. I spoke to him on</p> <p>7 the phone one time, I believe. And quite</p> <p>8 frankly, he does not care for me.</p> <p>9 Q. And why do you say that? What</p> <p>10 is your reasoning for saying that Mr.</p> <p>11 Montgomery does not care for you?</p> <p>12 A. He doesn't like the way I</p> <p>13 analyze his data.</p> <p>14 Q. And is that because you have</p> <p>15 found that the data is not sufficient?</p> <p>16 A. I can't go into personal</p> <p>17 beliefs on his part, but I would suspect that</p> <p>18 that is a part of it.</p> <p>19 Q. What are your impressions of</p> <p>20 Mr. Montgomery?</p> <p>21 A. I think he's a fraud. I think</p> <p>22 he's got an excellent resume. I think he's</p> <p>23 used that to pose as an expert in certain</p> <p>24 matters, and I think he's a fraud.</p> <p>25 Q. And have you shared your</p>	<p style="text-align: right;">Page 27</p> <p>1 Phil arranged a call with Mr. Lindell leading</p> <p>2 up to that. And Mr. Lindell selected me for</p> <p>3 taking a look at the data. And then</p> <p>4 subsequently, we had a follow-up call after</p> <p>5 the symposium.</p> <p>6 Q. And since that time, have you</p> <p>7 been in regular contact with Mr. Lindell?</p> <p>8 A. I have not.</p> <p>9 Q. Before you were engaged to work</p> <p>10 on this piece of litigation, were you engaged</p> <p>11 by Mr. Lindell with respect to any other</p> <p>12 litigation?</p> <p>13 A. I was not, that I -- he may</p> <p>14 have been funding some of those efforts, but</p> <p>15 I was not engaged by Mr. Lindell.</p> <p>16 Q. And by "those efforts," are</p> <p>17 those the -- are the cases in Antrim County</p> <p>18 Michigan and in Arizona?</p> <p>19 A. Yeah. So, you know, I'm not</p> <p>20 exactly sure which efforts he funded. But I</p> <p>21 believe he was assisting in the funding for</p> <p>22 Arizona, possibly Michigan. I'm not sure on</p> <p>23 that.</p> <p>24 Q. Again, I'm just trying to be</p> <p>25 clear.</p>
<p style="text-align: right;">Page 26</p> <p>1 opinion of Mr. Montgomery with Mr. Lindell?</p> <p>2 A. At a certain point, I expressed</p> <p>3 my concerns about Dennis Montgomery on a</p> <p>4 phone call with Mr. Lindell. I don't believe</p> <p>5 I called him a fraud at that point in time.</p> <p>6 Q. And do you recall when about</p> <p>7 this conversation would have occurred?</p> <p>8 A. It would have been after the</p> <p>9 first symposium, I believe.</p> <p>10 Q. Circling back to Conan Hayes --</p> <p>11 Mr. Hayes -- do you have any impression of</p> <p>12 Mr. Hayes?</p> <p>13 A. I read him very similar -- in a</p> <p>14 similar manner to Dennis Montgomery.</p> <p>15 Q. So before you were retained to</p> <p>16 work on this litigation, I guess it sounds</p> <p>17 like you did have contact with Mr. Lindell,</p> <p>18 beginning in -- at least around the time of</p> <p>19 this cyber symposium; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. And how did you first come into</p> <p>22 contact with Mr. Lindell?</p> <p>23 A. I was -- so the person who</p> <p>24 asked me to take a look at the data was</p> <p>25 actually Phil Waldron. And at some point,</p>	<p style="text-align: right;">Page 28</p> <p>1 When you say, like, you're</p> <p>2 referring to "those efforts," what you mean</p> <p>3 by "those efforts"? Which efforts those are?</p> <p>4 A. So the Arizona audit, the vast</p> <p>5 majority of that funding came from donations</p> <p>6 through -- I was a subcontractor of Cyber</p> <p>7 Ninjas, so I'm not sure who paid what and</p> <p>8 when, things of that nature.</p> <p>9 Q. And do you have a formal</p> <p>10 engagement letter from Mr. Lindell or</p> <p>11 MyPillow with respect to serving as an expert</p> <p>12 witness in this case?</p> <p>13 A. I engage with the attorneys,</p> <p>14 not with the client.</p> <p>15 Q. And so was that originally an</p> <p>16 engagement with Parker Daniels, Andrew</p> <p>17 Parker?</p> <p>18 A. Yes.</p> <p>19 Q. So I want to talk a little bit</p> <p>20 about your declaration. And we can -- we'll</p> <p>21 put it in the chat and mark it as an exhibit</p> <p>22 for the record. So this will be Plaintiff's</p> <p>23 Exhibit 705.</p> <p>24 (Exhibit No. 705 marked for</p> <p>25 identification.)</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

29-32

<p style="text-align: right;">Page 29</p> <p>1 BY MR. FREY:</p> <p>2 Q. And I believe you have it there</p> <p>3 in front of you, but we ca also --</p> <p>4 A. I do.</p> <p>5 Q. -- drop it in the chat box.</p> <p>6 If you could just open this</p> <p>7 one, just to confirm that it's an accurate</p> <p>8 copy of your report.</p> <p>9 A. Give me just a second here.</p> <p>10 It's asking me to save it to disk, so I will</p> <p>11 save it to disk and then review the diskette.</p> <p>12 Q. Thank you.</p> <p>13 MR. KACHOUROFF: Hey, this is</p> <p>14 Chris. What number are you putting on</p> <p>15 this one?</p> <p>16 MR. FREY: This will be</p> <p>17 Plaintiff's Exhibit 705.</p> <p>18 BY MR. FREY:</p> <p>19 Q. Were you able to access that,</p> <p>20 Mr. Cotton?</p> <p>21 A. I am -- I am reviewing it now.</p> <p>22 And I do have two screens here, so you will</p> <p>23 see my head move back and forth as things</p> <p>24 come up.</p> <p>25 Q. Okay. And I just want to</p>	<p style="text-align: right;">Page 31</p> <p>1 myself. Obviously, I sent it to the</p> <p>2 attorneys, you know, so they had a view on</p> <p>3 it. But all changes or modifications to this</p> <p>4 report in the creation of the report were my</p> <p>5 work.</p> <p>6 Q. Have you -- in either -- well,</p> <p>7 let's say, in putting together your</p> <p>8 declaration here, did you communicate with</p> <p>9 any other expert witnesses retained by</p> <p>10 Mr. Lindell?</p> <p>11 A. I don't recall coordinating</p> <p>12 with other expert witnesses on this report.</p> <p>13 From a broader voting system</p> <p>14 background, I have communicated with other</p> <p>15 expert witnesses -- Clay Pharik, for</p> <p>16 example -- as it pertains to EAC</p> <p>17 certification processes, you know. But as it</p> <p>18 pertains to this report, I do not believe I</p> <p>19 did.</p> <p>20 Q. I'm sorry, I missed that name</p> <p>21 of the other expert witness you said.</p> <p>22 A. Clay Pharik. Clay, C-L-A-Y,</p> <p>23 Pharik. And I may misspell this, but it's,</p> <p>24 P-H-A-R-I-K, I believe.</p> <p>25 Q. And what is Mr. Pharik's</p>
<p style="text-align: right;">Page 30</p> <p>1 confirm for the record that this is an, you</p> <p>2 know, an accurate copy of the declaration you</p> <p>3 submitted in this litigation on September 22,</p> <p>4 2023?</p> <p>5 A. It appears to be, yes.</p> <p>6 Q. And so as you see here on the</p> <p>7 front, it was submitted on September 22nd,</p> <p>8 2023. And I just want to talk a little bit</p> <p>9 about how you put this declaration together.</p> <p>10 Do you recall when about you</p> <p>11 began working on this declaration?</p> <p>12 A. I began reviewing documents, it</p> <p>13 would have been the late spring of 2023. As</p> <p>14 I reviewed those documents, I would have</p> <p>15 created -- start working on a draft of</p> <p>16 findings, more in note form at that point.</p> <p>17 And then once I had verbally disclosed my</p> <p>18 findings, they asked me to put it in a</p> <p>19 declaration form.</p> <p>20 Q. And then did you draft the</p> <p>21 declaration yourself?</p> <p>22 A. I did.</p> <p>23 Q. Did anyone else work with you</p> <p>24 to put together this declaration?</p> <p>25 A. No. This work is primarily</p>	<p style="text-align: right;">Page 32</p> <p>1 background?</p> <p>2 A. He served as a certification</p> <p>3 VSTL for the EAC. I think he was</p> <p>4 subcontracted to Pro V&amp;V in the certification</p> <p>5 of voting systems.</p> <p>6 Q. Now, aside from Mr. Pharik,</p> <p>7 have you coordinated with any other expert</p> <p>8 witnesses with respect to the opinions that</p> <p>9 you're offering in this litigation?</p> <p>10 A. Not to my recollection.</p> <p>11 Q. In terms of getting ready for</p> <p>12 today's deposition, when did you begin</p> <p>13 preparing for your deposition today?</p> <p>14 A. I got notice, I believe it was</p> <p>15 last week. I -- it's been some time since I</p> <p>16 wrote the declaration, so the first thing I</p> <p>17 did was review the declaration. And then I</p> <p>18 reviewed subsets of the documents that I had</p> <p>19 called out in my declaration.</p> <p>20 Q. And which documents did you</p> <p>21 review?</p> <p>22 A. I heavily focused on the source</p> <p>23 code review report, as well as the user</p> <p>24 manuals for both version 2.1 and 3.0 for LA</p> <p>25 County voting systems.</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

33-36

<p style="text-align: right;">Page 33</p> <p>1 Q. Aside from Mr. Kachouroff, did  2 you meet with anyone else to prepare for your  3 deposition today?  4 A. I did not.  5 Q. Have you discussed your  6 deposition today with any other expert  7 witnesses you've worked with in the past?  8 A. No.  9 Q. I know you mentioned a second  10 ago that it had been a bit of time since you  11 drafted the declaration.  12 Do you have a sense or  13 recollection of how many hours you spent  14 working on this litigation since you were  15 retained by Parker Daniels?  16 A. Specific to this, I would --  17 and this is a ballpark figure, I don't have  18 the numbers right in front of me -- but  19 probably around 40 to 50 hours.  20 Q. And does that include the time  21 you spent drafting your declaration?  22 A. Yes.  23 Q. And have you -- between the  24 time you submitted your declaration in  25 September of 2023, and last week when you</p>	<p style="text-align: right;">Page 35</p> <p>1 off the top of my head. But you know, rough  2 math, 350 times 50 hours, somewhere in there,  3 a rough ballpark figure.  4 Q. And outside of this litigation,  5 have you ever been compensated for work  6 you've performed related to election security  7 and analysis by Mr. Lindell?  8 A. Like I said, I am engaged with  9 the attorneys. I don't know what Mr. Lindell  10 funds. I do recall seeing one transfer from  11 a Lindell Defense Fund, but I believe that  12 was for some work that I'm doing for Kurt  13 Olsen, not related to Smartmatic.  14 Q. And are you still continuing to  15 do that work for Mr. Olsen?  16 A. Yes.  17 Q. What does that work entail?  18 A. So obviously, there's some  19 attorney/expert, witness/client issues here,  20 but it's all related around election  21 integrity.  22 We filed -- he filed some  23 motions to the Supreme Court. I had a  24 deposition as part of that -- or not a  25 deposition, but a declaration as part of</p>
<p style="text-align: right;">Page 34</p> <p>1 began preparing for this deposition, have you  2 performed any other work related to this  3 litigation?  4 A. No.  5 Q. Are you being compensated for  6 your work in this litigation, Mr. Cotton?  7 A. I am.  8 Q. And I believe on your fee  9 schedule at the back of your report on  10 page 24, it says that you charge \$350 an hour  11 for kind of non-testimonial work; is that  12 right?  13 A. That is correct.  14 Q. And is that your standard  15 hourly rate for expert witness work in  16 litigation matters?  17 A. It is -- or it was at the time.  18 Q. Have you been paid in this  19 litigation?  20 A. I believe we have. The  21 accountants would have let me know if we  22 weren't.  23 Q. Do you know how much you've  24 been paid to date for this litigation?  25 A. I don't have that figure right</p>	<p style="text-align: right;">Page 36</p> <p>1 that. And there's some work ongoing in  2 Georgia.  3 Q. And you believe you may have  4 gotten a payment from the Lindell defense  5 fund with respect to that work; is that  6 right?  7 A. I believe so, yeah.  8 Q. Do you recall an estimate of  9 how much that payment was for?  10 A. I don't.  11 Q. Outside of -- well, I guess,  12 let me back up a second.  13 When you were asked to review  14 the PCAP data in connection with the cyber  15 symposium in August of 2021, were you  16 provided any compensation for your time spent  17 conducting that review?  18 A. Yes.  19 Q. And how much were you paid in  20 that instance?  21 A. I think it was about \$12,000  22 for the time spent on that.  23 Q. And same question. When you  24 were asked -- I believe you said about a year  25 later -- to look at some additional data</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

37-40

<p style="text-align: right;">Page 37</p> <p>1 provided by Mr. Montgomery, were you  2 compensated for that time?  3 A. Mr. Olsen would have  4 compensated me for that, yes. I think it was  5 about three hours on that.  6 Q. Okay. And you just charge your  7 kind of \$350 per hour for however many hours  8 you spent looking at it?  9 A. Correct.  10 Q. Are you -- have you been  11 retained as an expert by Mr. Lindell in  12 litigation filed by Dominion?  13 A. No.  14 Q. Have you been retained by  15 Mr. Lindell or by attorneys on Mr. Lindell's  16 behalf in litigation filed by Mr. Kumer?  17 A. No.  18 Q. So I want to go back to your  19 declaration here, Exhibit 705.  20 And I believe you said that  21 when you were initially approached by Mr.  22 Parker to work on this, you were asked to  23 review certain documents and look for certain  24 items; is that right?  25 A. Yes.</p>	<p style="text-align: right;">Page 39</p> <p>1 determination on -- based on a review of the  2 documents and the vulnerability assessments  3 that I reviewed.  4 Q. And so you were, then -- and  5 that's what I guess I am trying to  6 crystallize here, is your opinions in this  7 case relate to possibilities or potential  8 vulnerabilities, correct? Not actual fraud  9 occurring or actual remote access having  10 taken place; is that right?  11 A. Well, the basis for that was,  12 it was my understanding that Smartmatic was  13 resisting producing an actual system to be  14 examined by experts.  15 And the purpose of the  16 declaration was to attempt to get actual  17 voting systems for the purposes of forensic  18 examination as that next step.  19 Q. Do you understand that LA  20 County is the entity that owns those actual  21 voting machines?  22 A. Yes.  23 Q. And do you understand that --  24 that Smartmatic would not have the ability to  25 turn over the voting machine, that it would</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. And Mr. Parker, then -- were  2 you then assigned to kind of write up your  3 findings?  4 A. I reviewed the documents. I  5 briefed the attorneys on my findings, and was  6 asked to put that into deposition form -- or  7 declaration form, I'm sorry.  8 Q. And did your assignment ever  9 include making a determination as to whether  10 or not there was voting manipulation in the  11 -- in LA County in the November 2020  12 election?  13 A. I believe it was mentioned as  14 an end goal, but, you know, I deal in facts  15 -- forensics facts. And without the  16 examination of a device that was actually  17 utilized in that litigation -- or in that  18 election, you know, I'm not able define that  19 there was fraud.  20 What I was able to determine  21 is, Is there a possibility of remote access?  22 Is there a possibility of manipulation of the  23 databases on the DMGs and those types of  24 things.  25 So I was able to make a</p>	<p style="text-align: right;">Page 40</p> <p>1 have to come from LA County?  2 A. You know, I leave those finer  3 distinctions to the attorneys. In some  4 cases, these voting companies actually just  5 lease those systems to the county. And in  6 other cases, the county actually owns them.  7 So I am not aware of which  8 configuration or which arrangement LA County  9 is under. So I leave that to the attorneys.  10 Q. Okay. But you didn't -- you  11 yourself are not offering an opinion or  12 commentary on whether -- who would be able to  13 provide that machine, fair?  14 A. Fair.  15 (Reporter clarification.)  16 THE WITNESS: "Fair." In other  17 words, I agreed with Mr. Frey.  18 BY MR. FREY:  19 Q. So let's turn to page 16 of  20 your declaration, then. You see in  21 paragraph 22, you state:  22 "Given the totality of the lack  23 of practical, effective cyber security  24 protections on all of the election  25 systems that I have examined, coupled</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**41-44**

<p style="text-align: right;">Page 41</p> <p>1 with the lack of effective access</p> <p>2 controls to systems, it is a near</p> <p>3 certainty that the VSAP systems would</p> <p>4 be vulnerable to unauthorized access</p> <p>5 and vote manipulation through</p> <p>6 technical processes."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. And is that the opinion you</p> <p>10 intend to offer in this case?</p> <p>11 A. Yes.</p> <p>12 Q. And again, so the opinion is</p> <p>13 that the voting systems would have technical</p> <p>14 vulnerabilities, right?</p> <p>15 A. The systems, as evaluated under</p> <p>16 the source code review, and based on the</p> <p>17 contents of the manuals, would have</p> <p>18 vulnerabilities that could allow remote</p> <p>19 access and manipulation of the databases on</p> <p>20 those systems.</p> <p>21 Q. Okay. And just to be clear,</p> <p>22 you're not opining that any actual vote</p> <p>23 manipulation occurred, are you?</p> <p>24 A. No, because I have not been</p> <p>25 able to examine a system that was actually</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. Okay. And so without looking</p> <p>2 at that -- at the machine, you can't say one</p> <p>3 way or the other, A, whether actual</p> <p>4 manipulation occurred, right?</p> <p>5 A. Well --</p> <p>6 Q. Is that fair?</p> <p>7 A. -- I cannot definitively prove</p> <p>8 that actual manipulation occurred during the</p> <p>9 election without the examination of one of</p> <p>10 the systems that was used in the election.</p> <p>11 Q. And are you also indicating</p> <p>12 here in this last sentence that you --</p> <p>13 without examining one of the machines, you</p> <p>14 cannot say whether it would be vulnerable to</p> <p>15 unauthorized access?</p> <p>16 A. No, I'm not saying that.</p> <p>17 Because based on my review of the -- of the</p> <p>18 supporting documents, I can tell you that it</p> <p>19 is vulnerable to remote access.</p> <p>20 Either through API, buffer</p> <p>21 overflows, memory injects, it certainly is</p> <p>22 susceptible to those remote access</p> <p>23 vulnerabilities.</p> <p>24 Q. And that's your opinion based</p> <p>25 on the information you reviewed, right?</p>
<p style="text-align: right;">Page 42</p> <p>1 used in the course of that election.</p> <p>2 Q. And you also state after that</p> <p>3 first opinion down at the bottom, you state:</p> <p>4 "I understand that Smartmatic</p> <p>5 has recently acknowledged that it has</p> <p>6 an exemplar BMD machine that it has</p> <p>7 not yet provided to defendant's</p> <p>8 counsel."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. And you go on to say:</p> <p>12 "Once I receive this machine, I</p> <p>13 will able to supplement my report. I</p> <p>14 would need to examine the VSAP system</p> <p>15 to definitively prove that this</p> <p>16 finding is directly applicable to the</p> <p>17 Los Angeles County voting system,"</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. So are you saying there that --</p> <p>21 when you refer to, "this finding," is that</p> <p>22 the finding that the systems would be</p> <p>23 vulnerable to unauthorized access?</p> <p>24 A. Yes, and the manipulation of</p> <p>25 the vote.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. That's correct.</p> <p>2 Q. We'll talk more about that</p> <p>3 today. I'm just trying to understand what</p> <p>4 your opinions are so that we can discuss</p> <p>5 them.</p> <p>6 A. Sure.</p> <p>7 Q. And since the time that you</p> <p>8 completed your declaration, I believe you</p> <p>9 indicated that you have not done any further</p> <p>10 work on this case, right?</p> <p>11 A. That's correct.</p> <p>12 Q. So is it fair to say that you</p> <p>13 haven't learned any more information since</p> <p>14 submitting this declaration that would allow</p> <p>15 you to add to your opinions?</p> <p>16 A. Well, I have read reports of</p> <p>17 the infiltration of the voter data from LA</p> <p>18 County that resided on servers based in</p> <p>19 China, due to an exploitation of some type</p> <p>20 from the Konnech system which I believe LA</p> <p>21 County utilizes.</p> <p>22 Q. And do you intend to offer any</p> <p>23 opinions in this case regarding these reports</p> <p>24 that you've read regarding exfiltration of</p> <p>25 voter data?</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

45-48

<p style="text-align: right;">Page 45</p> <p>1 A. I have not been asked to offer  2 any opinions on that particular subject at  3 this time.  4 Q. And were you aware -- let me  5 step back a second.  6 Did you review the expert  7 report of Dr. Allen Sherman that was  8 submitted in this litigation on behalf of  9 Smartmatic?  10 A. I did.  11 Q. Did you understand that you had  12 the opportunity to submit a rebuttal to his  13 report?  14 A. I was not asked to submit a  15 rebuttal to his report. If I were to do so,  16 I would simply state that Doctor -- Dr.  17 Shepard, I believe it was?  18 Q. Sherman.  19 A. Sherman. Dr. Sherman is under  20 the same constraints that I am, and he in  21 fact acknowledges that as a footnote in his  22 report, that he did not actually examine a  23 system that was utilized in the course of the  24 election.  25 Q. Okay. So is that your critique</p>	<p style="text-align: right;">Page 47</p> <p>1 Dr. Sherman's report in this litigation?  2 A. Well, I didn't come prepared to  3 really critique his report. I'm sure I have  4 other comments. If I am asked to do that, I  5 will be glad to provide that.  6 Q. But you haven't been asked to  7 do that today, right?  8 A. No.  9 Q. Have you reviewed the report of  10 Ms. Tammy Patrick that was submitted on  11 behalf of Smartmatic in this litigation?  12 A. I have not.  13 MR. FREY: So I think I'm at a  14 change of topics here. It's been  15 about an hour, so maybe let's go off  16 the record for five minutes and take a  17 quick break.  18 THE WITNESS: Okay. Thank you.  19 THE VIDEOGRAPHER: We are going  20 off the record at 10:30 a.m.  21 (Break taken.)  22 THE VIDEOGRAPHER: We are back  23 on the record at 10:37 a.m.  24 BY MR. FREY:  25 Q. Mr. Cotton, we're back on the</p>
<p style="text-align: right;">Page 46</p> <p>1 of Dr. Sherman? Or just your response to him  2 is that he was not actually able to review a  3 system utilized in the course of the  4 election?  5 A. I would say that it invalidates  6 a good deal of what he was saying. You know,  7 as part of what his report stated, he stated  8 those were not connected to the Internet.  9 You know, that flies directly  10 in the face of the network diagrams and the  11 documentation inside of the user manuals for  12 the LA County voting system, in that they  13 have data that specifically resides inside of  14 the AWS cloud.  15 So, therefore, it has to be  16 connected to the Internet in some form or  17 fashion to access that data that resides in  18 the AWS cloud.  19 The issues about  20 vulnerabilities, he's constrained by the fact  21 that he saw an exemplar system in Florida,  22 but he did not actually see a device that was  23 owned, operated or leased by LA County as  24 part of his examination.  25 Q. Any other critique you have of</p>	<p style="text-align: right;">Page 48</p> <p>1 record. And right now, I'd like to turn to  2 kind of your background and education  3 experience.  4 If you could flip with me to  5 page 17 of your declaration, which I believe  6 is where your CV begins.  7 A. Okay, one second. Okay. I'm  8 there.  9 Q. Okay. Is this a copy of your  10 CV?  11 A. It's a copy of the CV, I  12 believe as it existed at that time, yeah.  13 Q. And this -- have you updated  14 your CV, I guess, since this time of  15 September 2023?  16 A. I have.  17 Q. What have you added to your CV  18 over the past year?  19 A. So, just let me see where I'm  20 at here.  21 So I've added specific  22 testimony experience and things of that  23 nature.  24 Q. But have you received any  25 additional degrees in the past year?</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

49-52

<p style="text-align: right;">Page 49</p> <p>1 A. I have not.</p> <p>2 Q. Have you received any</p> <p>3 additional certifications in the past year?</p> <p>4 A. I have not.</p> <p>5 Q. Okay. I'd like to talk about</p> <p>6 those two first.</p> <p>7 It says here that you obtained</p> <p>8 your Master of Science Degree in Information</p> <p>9 Systems Management in May 2002, correct?</p> <p>10 A. That is correct.</p> <p>11 Q. And that was at the University</p> <p>12 of Maryland?</p> <p>13 A. Yes, at the University of</p> <p>14 Maryland University College.</p> <p>15 Q. University College? Okay.</p> <p>16 That is what I was going to ask, which</p> <p>17 campus?</p> <p>18 And did you ever attempt to</p> <p>19 obtain a Ph.D. or a doctorate in Information</p> <p>20 Systems Management?</p> <p>21 A. I have not.</p> <p>22 Q. In terms of the certifications,</p> <p>23 the first one here is Drug Enforcement</p> <p>24 Administration, Computer Forensic Examiner.</p> <p>25 How do you obtain that</p>	<p style="text-align: right;">Page 51</p> <p>1 industry standard certification concerning</p> <p>2 network configuration and knowledge, and</p> <p>3 that's done by an independent third-party</p> <p>4 testing.</p> <p>5 Q. Microsoft Certified</p> <p>6 Professional?</p> <p>7 A. The same. So there are a</p> <p>8 series of tests that you take to -- from</p> <p>9 Microsoft that basically give you the</p> <p>10 certification of Microsoft security</p> <p>11 professional, MSP.</p> <p>12 Q. And then finally, CyFIR</p> <p>13 Certified Examiner.</p> <p>14 A. So if you read further down in</p> <p>15 my bio, my company CyTech actually created a</p> <p>16 forensic software called CyFIR.</p> <p>17 And it is enterprise-level</p> <p>18 forensic software that allows the</p> <p>19 examinations of tens or hundreds of thousands</p> <p>20 of computers at once, in the same amount of</p> <p>21 time it takes to you look at one computer.</p> <p>22 There is a certification</p> <p>23 process by which you take a test for that,</p> <p>24 and you pass the test and you're a certified</p> <p>25 examiner.</p>
<p style="text-align: right;">Page 50</p> <p>1 certification?</p> <p>2 A. So when I retired from the</p> <p>3 military, I was hired by CSC Corporation to</p> <p>4 be a civilian-contracted examiner to the DEA</p> <p>5 forensics lab in Wharton, Virginia.</p> <p>6 As part of that onboarding</p> <p>7 process, they conducted a test to determine</p> <p>8 whether or not my competency was sufficient</p> <p>9 to testify in court and to properly examine</p> <p>10 digital media in support of their cases.</p> <p>11 Q. How about the next one, this</p> <p>12 Certified Information Systems Security</p> <p>13 Professional? How do you obtain that</p> <p>14 certification?</p> <p>15 A. CISSP is an industry standard</p> <p>16 -- actually, the gold standard -- for</p> <p>17 security professionals, and that is conducted</p> <p>18 by ISC2. And you study and you take a fairly</p> <p>19 rigorous exam for that, and it's all</p> <p>20 conducted by independent third parties.</p> <p>21 Q. Okay. Okay. So that's like a</p> <p>22 test that you take?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Networks Plus, Net Plus?</p> <p>25 A. Net Plus, once again, is an</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Are any of those certifications</p> <p>2 we just discussed related or contingent upon</p> <p>3 knowledge of voting -- electronic voting</p> <p>4 systems?</p> <p>5 A. Not specifically. However, all</p> <p>6 are applicable to the voting systems. It's</p> <p>7 important to understand that the voting</p> <p>8 software is not an operating system.</p> <p>9 The voting software simply is</p> <p>10 an application residing on an operating</p> <p>11 system like Linux or Windows or Unix.</p> <p>12 So the totality of the</p> <p>13 computing system, the security actually is --</p> <p>14 of the voting system, is dependent on the</p> <p>15 security of the operating system as the first</p> <p>16 layer of defense.</p> <p>17 And then there may be</p> <p>18 additional security protocols internal to the</p> <p>19 software. But if you have administrator</p> <p>20 access to the operating system, you've got</p> <p>21 keys to the kingdom.</p> <p>22 (Reporter clarification.)</p> <p>23 BY MR. FREY:</p> <p>24 Q. Okay. So you have knowledge of</p> <p>25 operating systems -- certifications with</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

53-56

<p style="text-align: right;">Page 53</p> <p>1 respect to operating systems.</p> <p>2 And I guess my question was,</p> <p>3 none of that is voting-specific, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And prior to November of 2020,</p> <p>6 did you have any experience with voting</p> <p>7 technology?</p> <p>8 A. No.</p> <p>9 Q. Prior to November 2020, had you</p> <p>10 ever performed any work related to election</p> <p>11 systems?</p> <p>12 A. No.</p> <p>13 Q. Have you ever designed a voting</p> <p>14 technology system?</p> <p>15 A. No.</p> <p>16 Q. Have you ever published any</p> <p>17 papers on the security of voting technology</p> <p>18 systems?</p> <p>19 A. I presented to the Arizona</p> <p>20 Senate on the lack of security of their</p> <p>21 voting system.</p> <p>22 Q. And that was the audit in 2021;</p> <p>23 is that correct?</p> <p>24 A. That's correct. And that was</p> <p>25 publicized, posted on the Senate website in</p>	<p style="text-align: right;">Page 55</p> <p>1 I noted the lack of compliance</p> <p>2 with those recommendations, and then, you</p> <p>3 know, what areas needed to be addressed to</p> <p>4 conform with those best practices.</p> <p>5 Q. Was that specific to Montana?</p> <p>6 A. That was. However, I would say</p> <p>7 that in all the jurisdictions that I've had</p> <p>8 the opportunity to look at voting systems,</p> <p>9 that presentation would be equally</p> <p>10 applicable.</p> <p>11 Q. We'll talk about the other</p> <p>12 jurisdictions you've looked at in a little</p> <p>13 bit.</p> <p>14 Have you ever studied the</p> <p>15 security of voting technology systems at a</p> <p>16 college or university?</p> <p>17 A. So, yes and no. So obviously,</p> <p>18 there are -- when you talk about security of</p> <p>19 a voting system, you have to also incorporate</p> <p>20 the security of the operating system, and the</p> <p>21 general security of a computing device.</p> <p>22 When you talk about a specific</p> <p>23 application, that would be like saying, Have</p> <p>24 you studied the security application of the</p> <p>25 Windows Word program?</p>
<p style="text-align: right;">Page 54</p> <p>1 Arizona.</p> <p>2 Q. Aside from that experience, I</p> <p>3 guess I was -- my question was, prior to</p> <p>4 November 2020, had you published any papers</p> <p>5 on the security of voting technology systems?</p> <p>6 A. No.</p> <p>7 Q. And then since 2020, I</p> <p>8 understand that you've presented to the</p> <p>9 Arizona Senate.</p> <p>10 Have you made any other</p> <p>11 presentations related to the security of</p> <p>12 voting technology systems?</p> <p>13 A. I did a presentation to the</p> <p>14 Montana Combined Judiciary Committee in --</p> <p>15 that would be about a year ago, on what the</p> <p>16 current state of the voting systems that I</p> <p>17 had examined were, and what my</p> <p>18 recommendations would be to secure those</p> <p>19 voting systems going forward.</p> <p>20 Q. And what recommendations did</p> <p>21 you make?</p> <p>22 A. I had a series of</p> <p>23 recommendations. And quite frankly, I</p> <p>24 followed the DHS recommendations of best</p> <p>25 practices for securing voting systems.</p>	<p style="text-align: right;">Page 56</p> <p>1 Because all the voting system</p> <p>2 is, is a series of aggregated individual</p> <p>3 applications that rely on the computing</p> <p>4 device to provide the vast majority of their</p> <p>5 security.</p> <p>6 So from an overarching computer</p> <p>7 security perspective, yes, I have. And --</p> <p>8 but from a, Have you studied this individual</p> <p>9 application for security? Quite frankly, I</p> <p>10 don't know of a curriculum that offers that.</p> <p>11 Q. Do you understand, Mr. Cotton,</p> <p>12 that there are levels of security for voting</p> <p>13 systems outside of the operating system</p> <p>14 itself?</p> <p>15 A. I do. The applications</p> <p>16 themselves may have additional security</p> <p>17 features internal to those applications.</p> <p>18 But in almost all cases, even</p> <p>19 those internal security features will rely on</p> <p>20 the operating system in some form or fashion.</p> <p>21 You know, FIPS compliance is a</p> <p>22 prime example of that, right? So you may use</p> <p>23 a FIPS algorithm as part of your encryption</p> <p>24 methodology, but that FIPS algorithm actually</p> <p>25 resides on the operating system.</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

57-60

<p style="text-align: right;">Page 57</p> <p>1 Q. When you say "FIPS," what does  2 that stand for?  3 A. I would have to look it up.  4 It's a federal encryption certification that  5 voting machines are required to be FIPS  6 compliant. And it pertains to the encryption  7 algorithms and the method of usage of those  8 encryption algorithms within a given system.  9 Q. And again, you're talking about  10 security features -- additional security  11 features on the operating system itself,  12 right?  13 A. Well, yes and no. So the --  14 the -- so if you -- if you look at the  15 Smartmatic system, it claims to be FIPS  16 compliant.  17 Those FIPS algorithms actually  18 reside as part of the operating system,  19 external of the applications of Smartmatic.  20 So the application that is the  21 voting -- you call it a voting system, it's  22 really an application. The Smartmatic  23 applications rely on the operating system to  24 provide that security encryption algorithm.  25 Q. Right.</p>	<p style="text-align: right;">Page 59</p> <p>1 A. I have not. But then also, I  2 do not believe -- I don't have personal  3 knowledge of any college university that  4 specifically will educate you on voting  5 security platforms.  6 These platforms are very  7 vendor-specific. All of the things that  8 you're talking about are not only  9 vendor-specific, but they're also affected by  10 state law as well.  11 So I haven't. But then again,  12 I don't know of any course that actually  13 offers that comprehensive course that you're  14 talking about.  15 Q. Outside of the educational  16 setting, have you ever worked in the  17 electronic voting industry?  18 A. No.  19 Q. Have you ever worked for a  20 Secretary of State's Office?  21 A. No.  22 Q. Have you ever been responsible  23 for managing an election that utilizes  24 electronic voting machines?  25 A. No.</p>
<p style="text-align: right;">Page 58</p> <p>1 And I guess my question was,  2 beyond the technical algorithms and operating  3 system security features, are you aware that  4 voting systems in the election management has  5 additional layers of security outside of the  6 computer components of the machines to  7 protect the integrity of the vote?  8 A. Some do, others don't.  9 Q. And have you -- do you have any  10 experience with those layers of security?  11 A. Within the systems I have  12 examined, yes.  13 Q. You understand that there are  14 physical security features, right?  15 A. Yes.  16 Q. You understand that there are  17 post-vote audits, right?  18 A. Correct.  19 Q. And, that's, I guess, back to  20 my original question about studying the  21 security of voting systems:  22 Have you ever been educated  23 on -- in a school or university -- the full  24 breadth of security surrounding an electronic  25 voting system?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Have you ever advised a client  2 on the security of electronic voting  3 machines?  4 A. Yes.  5 Q. And are those instances when  6 you say "yes" referring to the work that  7 we've discussed that you've done since  8 November of 2020?  9 A. Yes.  10 Q. Prior to November of 2020, had  11 you ever advised a client on the security of  12 electronic voting machines?  13 A. No.  14 Q. Prior to November 2020, had you  15 ever advised a client on the security of an  16 election that utilized electronic voting  17 machines?  18 A. No. No one had ever asked.  19 Q. Prior to November 2020, had you  20 ever reviewed a certification test related to  21 an electronic voting machine?  22 A. No.  23 Q. Prior to November 2020, had you  24 ever reviewed a security vulnerability test  25 related to an electronic voting machine?</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

61-64

<p style="text-align: right;">Page 61</p> <p>1 A. No.</p> <p>2 Q. Prior to November 2020, had you</p> <p>3 ever reviewed a user manual for an electronic</p> <p>4 voting machine?</p> <p>5 A. No.</p> <p>6 Q. Prior to November 2020, had you</p> <p>7 ever reviewed use procedures related to an</p> <p>8 electronic voting machine?</p> <p>9 A. No.</p> <p>10 Q. So, Mr. Cotton, if you could</p> <p>11 define for me, what is your expertise that</p> <p>12 you're bringing to your report?</p> <p>13 A. My expertise is in the cyber</p> <p>14 security system vulnerabilities, and the</p> <p>15 ability to gain remote access.</p> <p>16 It's also in whether or not</p> <p>17 this device is specifically capable of</p> <p>18 connecting to the Internet; whether or not</p> <p>19 this device, as indicated by the user manuals</p> <p>20 provided by LA County, whether this device</p> <p>21 was connected strictly to an Air Gap network,</p> <p>22 or was it connected to the public Internet?</p> <p>23 As I stated earlier, the</p> <p>24 applications that reside on a voting system</p> <p>25 rely on the security of the operating system</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. That's based on your work in</p> <p>2 this case?</p> <p>3 A. That's based on my work in all</p> <p>4 of my cases. You know, I've now got -- what?</p> <p>5 Three, three-and-a-half years of in-depth</p> <p>6 analysis of these systems.</p> <p>7 Q. And I may have asked this</p> <p>8 earlier, but how did you become involved in</p> <p>9 looking at these systems?</p> <p>10 A. Well, my first engagement was</p> <p>11 with the Michigan Bailey Antrim County case.</p> <p>12 And I'm not exactly sure how they came across</p> <p>13 me, but I have a very good reputation from</p> <p>14 the military for computer forensics technical</p> <p>15 analysis.</p> <p>16 And plus, it is what it is for</p> <p>17 me, right? So they wanted somebody to tell</p> <p>18 it to them straight, that wouldn't shade,</p> <p>19 based on political preference or anything</p> <p>20 else, and deliver a straight report and act</p> <p>21 as an expert.</p> <p>22 I was a qualified expert at</p> <p>23 that time in cyber security and computer</p> <p>24 forensics. They called me. I had an</p> <p>25 interview with Ms. Lambert, and they issued</p>
<p style="text-align: right;">Page 62</p> <p>1 to ensure their protection.</p> <p>2 And as a prime example, my</p> <p>3 experience with Dominion voting systems is if</p> <p>4 you have super user access or what's known as</p> <p>5 admin access, then you can fully access all</p> <p>6 of the data bases, as well as the voting</p> <p>7 applications, without further authentication.</p> <p>8 So you know, that's just a</p> <p>9 prime example of how you have an application,</p> <p>10 but it relies on the operating system to</p> <p>11 prevent unauthorized access to that system.</p> <p>12 Q. So I understand you to be</p> <p>13 saying that your expertise is cyber security</p> <p>14 and kind of operating system security, and</p> <p>15 then you've applied it in the ways that</p> <p>16 you've just discussed there.</p> <p>17 Is that fair?</p> <p>18 A. That is correct. Plus, my</p> <p>19 general technical knowledge and review of</p> <p>20 manuals, I can easily interpret what these</p> <p>21 manuals indicate, based on what's contained</p> <p>22 within the manual and the use procedures.</p> <p>23 Q. Do you consider yourself an</p> <p>24 expert in voting technology?</p> <p>25 A. I do now.</p>	<p style="text-align: right;">Page 64</p> <p>1 a -- or they engaged me.</p> <p>2 I used my own engagement letter</p> <p>3 for my engagements, but I was engaged to</p> <p>4 perform that examination.</p> <p>5 I believe that when the Senate</p> <p>6 was looking for a computer forensics expert</p> <p>7 to examine the Maricopa County, they got my</p> <p>8 name through that Michigan case, I believe.</p> <p>9 Q. So you kind of became involved</p> <p>10 in that Michigan case, and from there, you</p> <p>11 got more engagements arising out of the</p> <p>12 experience you had there, fair?</p> <p>13 A. Yes.</p> <p>14 Q. And that work in this field has</p> <p>15 been -- and if this is wrong, please tell me</p> <p>16 -- but has that been primarily on behalf of</p> <p>17 entities or attorneys seeking to point out</p> <p>18 flaws in election technology?</p> <p>19 A. That's a mischaracterization.</p> <p>20 I believe, at least from my work perspective,</p> <p>21 what they have asked me to do is determine</p> <p>22 the cyber security posture, stature, and</p> <p>23 weaknesses of the systems.</p> <p>24 The other motivations, you</p> <p>25 know, that was not confirmed to me at all</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

65-68

<p style="text-align: right;">Page 65</p> <p>1 during my engagements. I recognize that as  2 part of certain litigation efforts, that my  3 declarations have been included as part of  4 cases in which there were questions about the  5 outcomes of the election.  6 Q. Do you consider yourself to be  7 an expert in election systems?  8 A. I consider myself to be in  9 election and computing devices.  10 Q. And is that based on -- let's  11 break that up.  12 So you consider yourself to be  13 an expert in election computing devices; is  14 that right? Is that what you said?  15 A. I said "computing devices."  16 I'm not limited to election devices. As a  17 matter of fact, the vast bulk of my work is  18 not election, it's with other computing  19 devices.  20 Q. And outside of the computing  21 devices, do you consider yourself to be an  22 expert in how an election is run?  23 A. No. My expertise is specific  24 to the cyber security and function of the  25 election systems themselves.</p>	<p style="text-align: right;">Page 67</p> <p>1 application's securities.  2 So I would say -- to revise  3 your question, I would consider myself an  4 expert on the cyber security of a given  5 component of a voting system. So in other  6 words, a computing device that has  7 applications on it, those types of -- those  8 types of things.  9 Q. If we can go to page 3 of your  10 report. And you see here, beginning in  11 paragraph 9 on page 3, you state, "In the  12 course of my duties, I have reviewed," and  13 then there is a list of various items you've  14 reviewed over the next page and a half.  15 Do you see that?  16 A. I do.  17 Q. And setting aside for the  18 moment paragraph 8, where you discuss voting  19 systems that you examined, is this a full and  20 accurate list of all the materials you  21 considered when performing your analysis in  22 this case?  23 A. I believe so.  24 Q. How did you go about gathering  25 this list of documents to analyze?</p>
<p style="text-align: right;">Page 66</p> <p>1 So that would include  2 vulnerabilities. That would include remote  3 access. That would include network  4 configurations.  5 Q. You're not an expert in voting  6 machine certifications, are you?  7 A. I am not. As a matter of fact,  8 I'm quite critical of that process at this  9 point.  10 Q. You're not an expert in  11 journalism, right?  12 A. No.  13 Q. You're not an expert in  14 defamation law, correct?  15 A. No.  16 Q. Are you offering any opinions  17 in this case regarding the elements, I guess,  18 of a defamation claim?  19 A. No.  20 Q. And you're not an expert in  21 election security outside of the operating  22 systems, correct?  23 A. I would caveat that with, I  24 have analyzed the applications that comprise  25 a voting system. I have opinions on those</p>	<p style="text-align: right;">Page 68</p> <p>1 A. So in some cases, these  2 documents were on the LA County web page, and  3 I downloaded them directly from there.  4 And in some cases, I was  5 provided that directly from the attorneys. I  6 believe that's how I obtained Dr. Sherman's  7 report, was through the attorneys.  8 Q. I don't see any depositions  9 listed here.  10 Did you review any deposition  11 transcripts from this litigation?  12 A. I do not believe that I did.  13 Given the timing, I'm not sure that there  14 were any done prior to this that would have  15 been impactful, but that would be an attorney  16 question. But I did not review any  17 depositions.  18 Q. And since the time you  19 completed this declaration, have you reviewed  20 any depositions?  21 A. I have not.  22 Q. I also don't see any kind of --  23 and you'll know this from your involvement in  24 litigation -- any documents with, like, a  25 Bates stamp number listed here; is that</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

69-72

<p style="text-align: right;">Page 69</p> <p>1 correct?</p> <p>2 A. That's correct.</p> <p>3 Q. And do you understand that a</p> <p>4 Bates stamp number signifies that a party to</p> <p>5 the litigation produced that document, right?</p> <p>6 A. Yeah.</p> <p>7 Q. So did you review any documents</p> <p>8 produced by Smartmatic in rendering your</p> <p>9 opinions in this declaration?</p> <p>10 A. I do not believe I did.</p> <p>11 Q. Did you review any documents</p> <p>12 produced by Mr. Lindell or MyPillow in this</p> <p>13 case in rendering the opinions in your</p> <p>14 declaration?</p> <p>15 A. I don't recall reviewing any of</p> <p>16 those.</p> <p>17 Q. Did you review any academic</p> <p>18 literature in preparing your declaration in</p> <p>19 this case?</p> <p>20 A. Other than Dr. Sherman's</p> <p>21 report, no.</p> <p>22 Q. Are you aware that there is</p> <p>23 academic literature about the operation and</p> <p>24 security of electronic voting machines?</p> <p>25 A. I am. However, I don't recall</p>	<p style="text-align: right;">Page 71</p> <p>1 components, correct?</p> <p>2 A. Yes.</p> <p>3 Q. What -- which version of</p> <p>4 Democracy Suite -- Dominion Democracy Suite</p> <p>5 software did you review manuals and</p> <p>6 documentation related to?</p> <p>7 A. At the time of this report, it</p> <p>8 would have been 5.5(a) and 5.5(b). I</p> <p>9 subsequently have reviewed 5.17 as well.</p> <p>10 Q. And how did you obtain that</p> <p>11 documentation?</p> <p>12 A. That documentation was actually</p> <p>13 on the forensics images that I acquired as</p> <p>14 part of my litigation support efforts. So</p> <p>15 the EMS server contained the documentation.</p> <p>16 Q. And which jurisdiction did that</p> <p>17 relate to?</p> <p>18 A. 5.5(a) would be Coffee County,</p> <p>19 Georgia. 5.5(b) would be Arizona and Antrim</p> <p>20 County, Michigan.</p> <p>21 Q. And do you retain copies of</p> <p>22 those administrative manuals and</p> <p>23 documentation related to the Dominion</p> <p>24 Democracy Suite software and hardware?</p> <p>25 A. If I have retained the</p>
<p style="text-align: right;">Page 70</p> <p>1 anything that pertains directly to Smartmatic</p> <p>2 with respect to that. And I want to clarify</p> <p>3 something.</p> <p>4 I -- prior to this, I had</p> <p>5 knowledge of Dr. Halderman's report out of</p> <p>6 Michigan concerning vulnerabilities of BMD</p> <p>7 devices. And while I didn't review that in</p> <p>8 particular for this, that would have been</p> <p>9 part of my knowledge base as I wrote this.</p> <p>10 Q. Outside of Dr. Halderman's</p> <p>11 report in Michigan, are you familiar with any</p> <p>12 other academic literature regarding the</p> <p>13 security of electronic voting systems?</p> <p>14 A. No.</p> <p>15 Q. I believe the answer to this</p> <p>16 will be "no," but have you considered any</p> <p>17 additional documents as it pertains to your</p> <p>18 opinions since you've submitted your</p> <p>19 declaration?</p> <p>20 A. No.</p> <p>21 Q. So in terms of the documents</p> <p>22 that are listed here, in paragraph 9, you</p> <p>23 indicated that you reviewed administrative</p> <p>24 manuals and documentation for the Dominion</p> <p>25 Democracy Suite software and hardware</p>	<p style="text-align: right;">Page 72</p> <p>1 forensics images due to ongoing litigation,</p> <p>2 then yes, I have copies of those. Those</p> <p>3 would have been also exported out of the</p> <p>4 forensics image as part of my case files.</p> <p>5 Q. And do you know whether those</p> <p>6 documents were produced by defendants to</p> <p>7 Smartmatic in this case?</p> <p>8 A. These documents -- I never</p> <p>9 received a request for that, so I would</p> <p>10 assume no. But they're commonly available.</p> <p>11 The attorneys could have done that without</p> <p>12 asking me for it.</p> <p>13 Q. And did you rely upon -- you</p> <p>14 relied upon this documentation as part of</p> <p>15 rendering your opinions; is that correct?</p> <p>16 A. So specific to the Dominion and</p> <p>17 the other systems that were not Smartmatic,</p> <p>18 that forms the collective analysis of the</p> <p>19 weakness of cyber security through the</p> <p>20 different election systems.</p> <p>21 Q. So --</p> <p>22 (Cross talk.)</p> <p>23 A. Yeah. Part of that, I did rely</p> <p>24 on for some of the subsequent paragraphs in</p> <p>25 this report, when I discussed the DHS best</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

73-76

<p style="text-align: right;">Page 73</p> <p>1 practices and the lack of compliance.</p> <p>2 Q. So would that be, I guess,</p> <p>3 beginning at paragraph 20 of your report, in</p> <p>4 paragraphs 20 and 21?</p> <p>5 A. Yes.</p> <p>6 Q. And what type of electronic</p> <p>7 voting equipment -- and by "what type," I</p> <p>8 mean the type of electronic voting machine,</p> <p>9 not the Dominion, but the actual, you know,</p> <p>10 functionality of the machine -- does this</p> <p>11 administrative manuals and documentation</p> <p>12 relate to?</p> <p>13 A. It covers the full system, so</p> <p>14 that would have been ballot-marking devices,</p> <p>15 would have been tabulators, would have been</p> <p>16 the ICCs, or in other words, the scanning and</p> <p>17 tabulation functions.</p> <p>18 It would have covered the</p> <p>19 election management servers, or in Smartmatic</p> <p>20 vernacular, that would have been BMG.</p> <p>21 So the -- it also included poll</p> <p>22 books, it included the registration servers.</p> <p>23 And I may be missing a couple components, but</p> <p>24 if there were digits and we could image it,</p> <p>25 then we analyzed it.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. You also state in paragraph 10</p> <p>2 that you reviewed administrative manuals and</p> <p>3 documentation for the Hart Intercivic</p> <p>4 software and hardware components, correct?</p> <p>5 A. That is correct.</p> <p>6 Q. Which version of Hart</p> <p>7 Intercivic software did you review</p> <p>8 administrative manuals and documentation</p> <p>9 related to?</p> <p>10 A. I would have to look at those</p> <p>11 reports. It was the version that was used by</p> <p>12 Adams Township, Michigan.</p> <p>13 Q. Do you recall what type of</p> <p>14 electronic voting equipment software these</p> <p>15 administrative manuals and documentation</p> <p>16 related to?</p> <p>17 A. Well, primarily they relate to</p> <p>18 the user interaction with the systems on</p> <p>19 setup, operation, and control.</p> <p>20 The underlying operating system</p> <p>21 for that particular system appeared to be a</p> <p>22 form of Linux, and the iPads were obviously</p> <p>23 IOS.</p> <p>24 Q. And again, are you relying upon</p> <p>25 this Hart Intercivic documentation for</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. And when you say "we could</p> <p>2 image it," what are you imaging there?</p> <p>3 A. So I follow a -- the digital</p> <p>4 evidence handling protocols consistent with</p> <p>5 rules of evidence, Federal Rules of Evidence.</p> <p>6 And I am talking about the</p> <p>7 forensic bit-for-bit imaging of the entire</p> <p>8 systems. And I then used those images to</p> <p>9 perform my analysis on.</p> <p>10 So I'm not changing, modifying,</p> <p>11 or in other words, doing anything to the</p> <p>12 original voting system.</p> <p>13 Q. And I guess here, I am talking</p> <p>14 about the administrative manuals and</p> <p>15 documentation.</p> <p>16 So does that relate to the</p> <p>17 imaging you're taking? Or --</p> <p>18 A. Well, if we're referring only</p> <p>19 to the manuals, then it covers every</p> <p>20 component of the Democracy Voting Suite.</p> <p>21 Q. And that was the Democracy</p> <p>22 Voting Suite used in the jurisdictions Coffee</p> <p>23 County and Maricopa County?</p> <p>24 A. Coffee County, Maricopa County,</p> <p>25 Antrim County.</p>	<p style="text-align: right;">Page 76</p> <p>1 purposes of rendering your opinions in this</p> <p>2 declaration?</p> <p>3 A. As it pertains to paragraphs 20</p> <p>4 and 21 and the general corpus of knowledge,</p> <p>5 yes.</p> <p>6 Q. And again, do you still retain</p> <p>7 copies of this documentation today?</p> <p>8 A. I believe I still have that.</p> <p>9 That's still an ongoing case.</p> <p>10 Q. And did you provide this</p> <p>11 documentation to counsel for Mr. Lindell to</p> <p>12 be produced in this litigation?</p> <p>13 A. It was never asked for.</p> <p>14 Q. If it was asked for, would you</p> <p>15 provide that documentation?</p> <p>16 A. Yes.</p> <p>17 Q. And then I want to look at</p> <p>18 paragraph 11, here. And it says, "In the</p> <p>19 course of preparing this declaration, I</p> <p>20 reviewed the ATSEC source code review report,</p> <p>21 dated 2020-01-06, for the Los Angeles County</p> <p>22 VSAP system," right?</p> <p>23 A. Yes.</p> <p>24 Q. Sorry, going back really</p> <p>25 quickly to the Hart Intercivic software.</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

77-80

<p style="text-align: right;">Page 77</p> <p>1 That did not include a</p> <p>2 ballot-marking device, right?</p> <p>3 A. I believe the manuals include</p> <p>4 that. What I was focused on did not include</p> <p>5 the BMDs.</p> <p>6 Q. Do you know whether BMDs were</p> <p>7 used in Michigan in the November 2020</p> <p>8 election?</p> <p>9 A. Offhand, I don't. I'd have to</p> <p>10 refer to notes.</p> <p>11 Q. Okay. Going back -- sorry for</p> <p>12 the jump there -- to paragraph 11, I want to</p> <p>13 introduce this as an exhibit. This will be</p> <p>14 Exhibit 706, to ensure that we're looking at</p> <p>15 the same document.</p> <p>16 So let me put in the chat, the</p> <p>17 document that is Bates stamped,</p> <p>18 Smartmatic-Lindell 0018425.</p> <p>19 (Exhibit No. 706 marked for</p> <p>20 identification.)</p> <p>21 BY MR. FREY:</p> <p>22 Q. Please let me know when you're</p> <p>23 able to download that.</p> <p>24 MR. KACHOUROFF: That is going</p> <p>25 to be 706?</p>	<p style="text-align: right;">Page 79</p> <p>1 reviewed the Cylance testing report?</p> <p>2 A. If it was available, I did.</p> <p>3 But I don't believe I listed that in my</p> <p>4 declaration here.</p> <p>5 Q. Did you review the SLI</p> <p>6 compliance testing reports?</p> <p>7 A. As it relates to version 3.0?</p> <p>8 Yes.</p> <p>9 Q. Or version 2.1?</p> <p>10 A. Yes, I reviewed all of those</p> <p>11 testing reports.</p> <p>12 Q. Did you review the Freeman</p> <p>13 Craft McGregor testing reports?</p> <p>14 A. I am going to refer to the</p> <p>15 digital copy of my declaration that you sent</p> <p>16 me and do a keyword search.</p> <p>17 You said McGregor?</p> <p>18 Q. Yes, McGregor.</p> <p>19 A. I don't find that listed in my</p> <p>20 report, so I don't believe that I did.</p> <p>21 Q. And then, have you reviewed the</p> <p>22 Blackberry Testing Report related to the VSAP</p> <p>23 system?</p> <p>24 A. I did not review that.</p> <p>25 Q. Moving down to paragraph 12,</p>
<p style="text-align: right;">Page 78</p> <p>1 MR. FREY: Yes.</p> <p>2 THE WITNESS: Okay. It hasn't</p> <p>3 showed up in my chat yet.</p> <p>4 MR. FREY: I think it should</p> <p>5 have just popped up.</p> <p>6 THE WITNESS: Okay. I have</p> <p>7 that up.</p> <p>8 BY MR. FREY:</p> <p>9 Q. Okay. So you see on the front</p> <p>10 page, it says, "ATSEC Source Code Review</p> <p>11 Report, Voting Solutions For All People,</p> <p>12 Version 2.0. Report date 2020-1-06."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Is this the document that</p> <p>16 you're referring to in paragraph 11?</p> <p>17 A. It appears to be. The page</p> <p>18 count is the same and the date is the same.</p> <p>19 Q. Outside of this ATSEC Source</p> <p>20 Code Review Report, did you review any other</p> <p>21 testing reports related to the have VSAP</p> <p>22 system?</p> <p>23 A. All the reports that I reviewed</p> <p>24 are listed as part of my declaration.</p> <p>25 Q. Do you recall whether you</p>	<p style="text-align: right;">Page 80</p> <p>1 you indicate that you reviewed various</p> <p>2 documents related to VSAP 3.0 certification,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. Are you aware that the VSAP 3.0</p> <p>6 was not in effect as of the November 2020</p> <p>7 election?</p> <p>8 A. I am.</p> <p>9 Q. Why did you include the VSAP</p> <p>10 3.0 documentation in your review?</p> <p>11 A. Because that was the latest</p> <p>12 version, and I was looking for changes and</p> <p>13 modifications to the cyber security practices</p> <p>14 and network design pieces from 2.1 to 3.0.</p> <p>15 Q. And are you relying upon any of</p> <p>16 the VSAP certification 3.0 documentation for</p> <p>17 purposes of rendering your opinions in this</p> <p>18 case?</p> <p>19 A. Partially, because I did</p> <p>20 confirm in the VSAP 3.0, the network diagram,</p> <p>21 as well as the fact that AWS was used for</p> <p>22 storage of remote voting ballots.</p> <p>23 Q. And where in the VSAP 3.0</p> <p>24 documentation did you learn that AWS was in</p> <p>25 use?</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

81-84

<p style="text-align: right;">Page 81</p> <p>1 A. It is in the user manual, the  2 user guide.  3 Q. Do you recall what page, what  4 section?  5 A. If you allow me to bring that  6 up, I can tell you exactly. But I don't have  7 that present on my desktop.  8 Q. Well, we'll introduce it.  9 So you said it's the user  10 guide?  11 A. Yes. Here, it would be -- it's  12 in the user manual for how to set it up and  13 access it and things of that nature.  14 Q. And I just asked this because  15 it's not -- in your declaration, you don't  16 cite to any specific places, so it's  17 difficult to determine where you're referring  18 to.  19 A. Okay.  20 Q. So we will come back to that.  21 Outside of that component  22 relating to the AWS, are you relying upon the  23 VSAP certification 3.0 documentation for any  24 of your other opinions in this case?  25 A. I don't believe so.</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. And what relevance does that  2 EAC certification have to your opinions in  3 this case?  4 A. Well, it's very unusual for a  5 voting system not to have been certified by  6 the EAC. Almost all the states have adopted  7 the EAC certification as the de facto  8 standard for their voting systems.  9 Q. Do you have any experience with  10 the EAC, outside of your work in this case?  11 A. Yes. In all the  12 election-related cases that I have worked,  13 the EAC certifications have been a factor.  14 Q. Have you ever worked with or  15 for the EAC?  16 A. I have not.  17 Q. And you haven't worked with any  18 secretaries of state's offices or  19 jurisdictions in approving the election  20 equipment, correct?  21 A. No.  22 Q. Do you know whether the  23 California voting standards are equal to or  24 greater than the EAC standards?  25 A. I have not done a comparison of</p>
<p style="text-align: right;">Page 82</p> <p>1 Q. And then you include the LA  2 County Voting System For All People  3 certification. And it says "3.0" on here,  4 but I think you're referring to the 2.1  5 document set in paragraph 13; is that right?  6 A. That's correct.  7 Q. Okay. And that was the  8 certification documentation set related to  9 the system in place as of the November 2020  10 election, right?  11 A. Yes, that's my understanding.  12 Q. And then in paragraph 14, you  13 indicate that you reviewed publicly available  14 information from the Election Assistance  15 Commission regarding voting systems  16 certification status and the certification  17 process for election software, correct?  18 A. Correct.  19 Q. Why did you review this  20 information for purposes of rendering your  21 opinions in this case?  22 A. I wanted to determine whether  23 or not the EAC under the HAVA Act had  24 actually certified a Smartmatic voting  25 system.</p>	<p style="text-align: right;">Page 84</p> <p>1 the two standards.  2 Q. And you have not reviewed any  3 deposition testimony related to Smartmatic's  4 decisionmaking regarding EAC certification,  5 correct?  6 A. Correct.  7 Q. And so outside of stating that  8 Smartmatic currently does not have any active  9 certifications by the EAC for any of their  10 voting systems, are you rendering any  11 opinions related to EAC certifications in  12 this case?  13 A. No.  14 Q. All right. So I want to go  15 back to paragraph 8 now, where you indicate  16 that you forensically examined voting systems  17 in Maricopa County Arizona, Antrim County  18 Michigan, Mesa County Colorado, Coffee County  19 Georgia, and Adams Township, Michigan in the  20 course of your duties.  21 Do you see that?  22 A. I do.  23 Q. And did you forensically  24 examine those voting systems as part of your  25 engagement in this case?</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

85-88

<p style="text-align: right;">Page 85</p> <p>1 A. No.</p> <p>2 Q. So you were examining those</p> <p>3 voting systems related to other litigation in</p> <p>4 which you were retained as an expert,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Did you rely upon your forensic</p> <p>8 review of these voting systems in rendering</p> <p>9 your opinions in this litigation?</p> <p>10 A. As a corpus of knowledge, I</p> <p>11 relied on that information that I obtained</p> <p>12 through those examinations for paragraphs 20</p> <p>13 and 21, which is the general cyber security</p> <p>14 posture for voting systems.</p> <p>15 Q. And do you -- let's go through</p> <p>16 them one at a time.</p> <p>17 So the first one is the voting</p> <p>18 system in Maricopa County Arizona. What</p> <p>19 company manufactured the voting system</p> <p>20 information you reviewed from Maricopa</p> <p>21 County?</p> <p>22 A. Dominion.</p> <p>23 Q. And what type of election</p> <p>24 technology system did you forensically</p> <p>25 examine?</p>	<p style="text-align: right;">Page 87</p> <p>1 all the digital media, and then used an FTK</p> <p>2 imageer to create a forensics image of each</p> <p>3 of those components.</p> <p>4 Q. Did you yourself --</p> <p>5 (Cross talk.)</p> <p>6 A. I've got a UPS device that is</p> <p>7 beeping and it's about to go off. So I need</p> <p>8 to reset something real quick.</p> <p>9 Q. Sure, no problem.</p> <p>10 MR. FREY: We can go off the</p> <p>11 record.</p> <p>12 THE VIDEOGRAPHER: We are going</p> <p>13 off the record at 11:30 a.m.</p> <p>14 (Break taken.)</p> <p>15 THE VIDEOGRAPHER: We are back</p> <p>16 on the record at 11:33 a.m.</p> <p>17 BY MR. FREY:</p> <p>18 Q. Okay. Mr. Cotton, we are back</p> <p>19 on the record. And my question was:</p> <p>20 Based on your prior answer that</p> <p>21 you followed standard digital imaging</p> <p>22 processes, et cetera, you -- it sounds like</p> <p>23 you yourself imaged the voting system</p> <p>24 components for Maricopa County, Arizona; is</p> <p>25 that true?</p>
<p style="text-align: right;">Page 86</p> <p>1 A. I examined all aspects of the</p> <p>2 digital computing devices, which included the</p> <p>3 Election Management Server, the EMS; the EMS</p> <p>4 clients; the adjudication work stations; the</p> <p>5 ICCs, which are the scanning controllers for</p> <p>6 the canon scanners.</p> <p>7 They also had four HiPro</p> <p>8 scanners, which were high volume scanning</p> <p>9 devices. Those were included as part of that</p> <p>10 examination.</p> <p>11 Q. Did you examine any ballot</p> <p>12 marking devices?</p> <p>13 A. They did not provide the ballot</p> <p>14 marking devices as part of that subpoena.</p> <p>15 But I did examine tabulators and the</p> <p>16 tabulator data cards.</p> <p>17 Q. So tabulators, tabulator data</p> <p>18 cards, EMS, scanners.</p> <p>19 But no BMDs, right?</p> <p>20 A. Correct.</p> <p>21 Q. How did you obtain the forensic</p> <p>22 images of these components of the voting</p> <p>23 system in Maricopa County Arizona?</p> <p>24 A. So I followed standard digital</p> <p>25 imaging processes, utilized a right block for</p>	<p style="text-align: right;">Page 88</p> <p>1 A. You mean some of them. We had</p> <p>2 a team of ten people that were performing the</p> <p>3 imaging. I personally conducted the training</p> <p>4 of all people to make sure they met the</p> <p>5 standards. They were part of my company.</p> <p>6 And we had some independent contractors</p> <p>7 contacted as well for this.</p> <p>8 So we baselined everybody, did</p> <p>9 essentially a mini-validation that they were</p> <p>10 following proper procedures, and then we</p> <p>11 imaged approximately 140 terabytes of data as</p> <p>12 part of that engagement.</p> <p>13 Q. And I don't need the exact</p> <p>14 date, but do you recall the time period in</p> <p>15 which you performed this imaging?</p> <p>16 A. It would have been from the</p> <p>17 middle of May for the next two weeks.</p> <p>18 Q. May 2021?</p> <p>19 A. Yeah.</p> <p>20 Q. So it wasn't imaged at the time</p> <p>21 of the election, correct?</p> <p>22 A. No. We were relying on the</p> <p>23 Arizona Senate to provide the devices under</p> <p>24 subpoena. And so it took -- the subpoena was</p> <p>25 issued in December of 2020, and then there</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

89-92

<p style="text-align: right;">Page 89</p> <p>1 were some court proceedings that delayed the  2 handoff of that equipment to -- I'm sorry,  3 April of 2021.  4 It would have been middle of  5 April 2021 to the first part of May. Two  6 weeks, roughly, is where it took us.  7 Q. And do you know whether at the  8 time you were able to image the devices in  9 the systems, whether they would reflect the  10 same setup and the same kind of operating  11 capacity abilities that they would have had  12 on election day in November of 2020?  13 A. Well, since there was a --  14 well, let me preface this.  15 We assumed that they would, and  16 that assumption was based on the fact that  17 notice was provided to Maricopa County, that  18 there was pending litigation by the Senate.  19 And so, therefore, we assumed that there  20 would be a preservation of that data in  21 accordance with law.  22 Q. And after you imaged and  23 reviewed this information, did you appear as  24 an expert witness to testify regarding your  25 review?</p>	<p style="text-align: right;">Page 91</p> <p>1 Court in that case found that Rule 11  2 sanctions were appropriate against Ms. Lake's  3 attorneys?  4 A. You'd have to ask the attorneys  5 on that. I didn't pay a lot of attention to  6 that.  7 Q. And isn't it also true that  8 there was a special master appointed by the  9 Arizona State Senate in that litigation?  10 A. There was.  11 Q. And isn't it true that the  12 special master in that case disagreed with  13 your findings related to what the  14 forensically-imaged information showed?  15 A. That is true, they disagreed  16 with our findings. However, their report was  17 fatally flawed.  18 Q. Is that your opinion?  19 A. Well, I think it would be any  20 honest examination of the facts opinion.  21 One, their scope was strictly limited to the  22 network aspects of the systems.  23 That was the reason they  24 appointed the special master, is they did not  25 want to produce the routers and network data</p>
<p style="text-align: right;">Page 90</p> <p>1 A. Yes.  2 Q. And was that -- is that the  3 Kari Lake litigation?  4 A. Yes. So there was also two  5 presentations to the public in the Arizona  6 Senate previous to that litigation. I  7 believe that would have been July and  8 possibly the first part of September of 2021.  9 Q. And you were retained by  10 attorneys representing Ms. Lake, correct?  11 A. I was.  12 Q. And isn't it true that that  13 litigation was dismissed by the Court?  14 A. I believe it was, but then it  15 was subsequently appealed. I believe they're  16 still -- they are still in legal proceedings  17 over that matter, as I understand it.  18 Q. And is that the case we talked  19 about earlier, wherein sanctions were awarded  20 against the attorneys for the client you were  21 retained by?  22 A. Well, I can't speak as to  23 sanctions. However, there was a complaint at  24 the bar.  25 Q. Are you aware of whether the</p>	<p style="text-align: right;">Page 92</p> <p>1 to the auditors. So they appointed a special  2 master.  3 The -- in that report, they  4 stated that Maricopa County had informed them  5 that there were no managed switches that were  6 part of the voting system. And because of  7 that statement and a brief inspection of a  8 computer routing rack that was created after  9 the election, the special master said they  10 could not have been connected to the -- there  11 was no -- they stated that there was no  12 managed switch, so therefore, there was no  13 data, and that it was an Air Gapped system.  14 The problem with that is that  15 Pro V&amp;V had been engaged in March of 2021 by  16 Maricopa County. And as part of their  17 examination for their audit, they listed a  18 managed switch. So it's clear that the  19 special master report did not have access to  20 the equipment and the configuration that  21 existed at the time of election, and at the  22 time of the Pro V&amp;V audit.  23 Q. The court found the special  24 master's findings to be dispositive, right?  25 A. The Court certainly considered</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

93-96

<p style="text-align: right;">Page 93</p> <p>1 them.</p> <p>2 Q. Have you reviewed the United</p> <p>3 States District Court for the District of</p> <p>4 Arizona's December 1, 2022, order in the Lake</p> <p>5 litigation?</p> <p>6 A. I have not.</p> <p>7 Q. I'll put up as an exhibit,</p> <p>8 Exhibit 707. This is the Court's order in</p> <p>9 this case.</p> <p>10 (Exhibit No. 707 marked for</p> <p>11 identification.)</p> <p>12 THE WITNESS: Okay. I have</p> <p>13 that up.</p> <p>14 BY MR. FREY:</p> <p>15 Q. Okay. Do you see at the top,</p> <p>16 there's the pacer identifier that says case</p> <p>17 2:22-cv-00677, Document 106, filed December</p> <p>18 1, 2022?</p> <p>19 A. I do.</p> <p>20 Q. And then it's an order from the</p> <p>21 United States District Court from the</p> <p>22 District of Arizona, right?</p> <p>23 A. Yes.</p> <p>24 Q. And looking at the first</p> <p>25 paragraph there, the Court states:</p>	<p style="text-align: right;">Page 95</p> <p>1 And the Court states,</p> <p>2 "Plaintiffs," -- which is Ms. Lake --</p> <p>3 "responds that their allegations about the</p> <p>4 Internet connectivity of Maricopa County</p> <p>5 systems are well-founded."</p> <p>6 It goes on to say:</p> <p>7 "To support their argument,</p> <p>8 plaintiffs cite to the testimony of</p> <p>9 their expert, Benjamin Cotton, who</p> <p>10 analyzed election systems provided by</p> <p>11 Maricopa County during the Cyber</p> <p>12 Ninjas' audit."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. And is that the -- an analysis</p> <p>16 of the images we have been discussing?</p> <p>17 A. Yes.</p> <p>18 Q. So the Court goes on to</p> <p>19 describe your testimony:</p> <p>20 "Mr. Cotton testified that he</p> <p>21 saw actual evidence of remote log-ins</p> <p>22 into Maricopa County's election</p> <p>23 management server. When asked whether</p> <p>24 those were permissible or a security</p> <p>25 breach, he responded, 'The</p>
<p style="text-align: right;">Page 94</p> <p>1 "At issue is the Federal Rule</p> <p>2 of Civil Procedure 11 and 28 U.S.C.</p> <p>3 section 1927, Motion for Sanctions</p> <p>4 filed by Defendants."</p> <p>5 Do you see that, in the opening</p> <p>6 paragraph?</p> <p>7 A. Yes.</p> <p>8 Q. And then at the bottom of that</p> <p>9 opening paragraph, the Court says, "For the</p> <p>10 reasons set forth below, the Court grants</p> <p>11 Maricopa County Defendants' motion," right?</p> <p>12 A. Yes.</p> <p>13 Q. So if you go down with me to</p> <p>14 page 17, do you see there's a Section 5:</p> <p>15 Allegations Regarding the Internet</p> <p>16 Connectivity of Maricopa County's Election</p> <p>17 Systems?</p> <p>18 MR. KACHOUROFF: What page are</p> <p>19 you on, Tim?</p> <p>20 MR. FREY: Page 17.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. FREY:</p> <p>23 Q. Okay. And then at the bottom</p> <p>24 of -- the first paragraph there, kind of sets</p> <p>25 out the dispute.</p>	<p style="text-align: right;">Page 96</p> <p>1 attributable log-ins -- because I did</p> <p>2 see some anonymous log-ins that I</p> <p>3 could not trace back to an event. The</p> <p>4 ones that I saw came from the local</p> <p>5 EMS subnet, if you will, the IP</p> <p>6 address that -- for the voting</p> <p>7 system."</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. And is that testimony that you</p> <p>11 provided in that case?</p> <p>12 A. It is.</p> <p>13 Q. And if you go to the bottom of</p> <p>14 that first paragraph, there is a discussion</p> <p>15 where -- you give testimony that you couldn't</p> <p>16 have access to the Internet, and provided</p> <p>17 examples of breaches through other Air Gap</p> <p>18 systems not used by Maricopa County.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. The Court then goes on, in the</p> <p>22 next paragraph, to discuss the special master</p> <p>23 designated by the Arizona State Senate to</p> <p>24 examine the County's election network and</p> <p>25 equipment.</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

97-100

<p style="text-align: right;">Page 97</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. And the Court says that the</p> <p>4 special master found, quote, "No evidence</p> <p>5 that the routers, manage switches, or</p> <p>6 electronic devices in Maricopa County's</p> <p>7 Ballot Tabulations Center connected to the</p> <p>8 public Internet," right?</p> <p>9 A. I see that.</p> <p>10 Q. And is this consistent with the</p> <p>11 special master's testimony?</p> <p>12 A. That is. However, what I would</p> <p>13 like to point out here is that the special</p> <p>14 master's examination of the current state of</p> <p>15 the Maricopa County network was conducted</p> <p>16 almost two and a half months after we imaged</p> <p>17 the devices.</p> <p>18 At no time did they request or</p> <p>19 did they examine the forensics images that we</p> <p>20 created that was the basis of my testimony.</p> <p>21 So in other words, they wrote a</p> <p>22 report without looking at the evidence. They</p> <p>23 wrote a report in which not all of the</p> <p>24 evidence, as it existed at the time of the</p> <p>25 election, existed.</p>	<p style="text-align: right;">Page 99</p> <p>1 "Although the plaintiffs'</p> <p>2 claims that Maricopa County's systems</p> <p>3 can be or have been connected to the</p> <p>4 Internet are in direct contradiction</p> <p>5 to the County Defendant's evidence and</p> <p>6 the special master's findings, the</p> <p>7 Court will treat them as unpersuasive</p> <p>8 arguments rather than as false</p> <p>9 assertions of fact, allowing</p> <p>10 plaintiffs the benefit of the doubt."</p> <p>11 Do you see that?</p> <p>12 A. I think the keyword there is</p> <p>13 they allowed the plaintiffs the benefit of</p> <p>14 the doubt. If you will review my report to</p> <p>15 the Senate, I itemized specific instances in</p> <p>16 which multiple connections were made external</p> <p>17 to the Air Gap network by the EMS.</p> <p>18 Q. And you maintain control or</p> <p>19 possession of the information that you</p> <p>20 forensically reviewed in this case?</p> <p>21 A. So I returned to forensics</p> <p>22 images to the Arizona State Senate.</p> <p>23 Q. Did you rely upon the forensic</p> <p>24 images from the Maricopa County voting</p> <p>25 systems in rendering your opinions in this</p>
<p style="text-align: right;">Page 98</p> <p>1 And they relied almost</p> <p>2 exclusively on the Maricopa County officials'</p> <p>3 assertion that it was an Air Gap network.</p> <p>4 So this was his decision, but</p> <p>5 quite frankly, I don't understand how you can</p> <p>6 make this decision when they didn't look at</p> <p>7 the evidence that we preserved. And the</p> <p>8 Senate had a copy of those images.</p> <p>9 And that did not include all</p> <p>10 the equipment that the Pro V&amp;V audit report</p> <p>11 validated was present at the time of the</p> <p>12 election.</p> <p>13 You know, I think we've all</p> <p>14 been in cases where we believe the judge got</p> <p>15 it wrong. And in this case, he definitely</p> <p>16 did.</p> <p>17 Q. As the Court then goes on to</p> <p>18 state at the bottom of that page, it says:</p> <p>19 "The special master's findings</p> <p>20 are consistent with what the County</p> <p>21 has long maintained and what previous</p> <p>22 audits have likewise concluded."</p> <p>23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And then the Court says:</p>	<p style="text-align: right;">Page 100</p> <p>1 case?</p> <p>2 A. From a corpus of knowledge as</p> <p>3 it pertained to cyber security, yes, in</p> <p>4 paragraphs 20 and 21.</p> <p>5 There was no dispute that they</p> <p>6 did not patch the systems, they had not</p> <p>7 updated the antivirus, they allowed remote</p> <p>8 access to the EMS, they had used the same</p> <p>9 password for all user accounts on the system.</p> <p>10 There's no dispute to that.</p> <p>11 Q. And I'm just trying to</p> <p>12 understand that -- the extent to which you</p> <p>13 relied upon that for rendering your opinions</p> <p>14 in this litigation.</p> <p>15 And that's in paragraphs 20 and</p> <p>16 21, you said, correct?</p> <p>17 A. Well, specifically to the Air</p> <p>18 Gap network, I relied on my personal</p> <p>19 knowledge and the ability to easily bypass</p> <p>20 Air Gap networks through various techniques.</p> <p>21 I did not rely on this particular finding by</p> <p>22 the judge as part of my report.</p> <p>23 Q. Okay. I want to talk about the</p> <p>24 next system that you forensically reviewed,</p> <p>25 and that's Antrim County, Michigan, correct?</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

101-104

<p style="text-align: right;">Page 101</p> <p>1 A. Correct.</p> <p>2 Q. And what company manufactured</p> <p>3 the voting system information you reviewed</p> <p>4 from Antrim County?</p> <p>5 A. Dominion.</p> <p>6 Q. And was that the Dominion</p> <p>7 5.5(a), did you testify earlier?</p> <p>8 A. B.</p> <p>9 Q. 5.5(b), okay.</p> <p>10 A. 5.5(b) --</p> <p>11 Q. I'm sorry?</p> <p>12 A. 5.5(a) is Georgia.</p> <p>13 Q. And what components of the</p> <p>14 voting system did you forensically review in</p> <p>15 Antrim County?</p> <p>16 A. So with Antrim County, I had</p> <p>17 access to previously imaged -- to a</p> <p>18 previously-imaged forensics image of the EMS</p> <p>19 server, as well as the poll books and I</p> <p>20 believe an ICC.</p> <p>21 Q. So no BMD, correct?</p> <p>22 A. And a BMD, yes.</p> <p>23 Q. There was a BMD?</p> <p>24 A. Yes.</p> <p>25 Q. And you don't recall one way or</p>	<p style="text-align: right;">Page 103</p> <p>1 write block.</p> <p>2 Q. Are you confident that it</p> <p>3 was --</p> <p>4 A. And it was --</p> <p>5 (Cross talk.)</p> <p>6 (Reporter clarification.)</p> <p>7 THE WITNESS: It was in the</p> <p>8 N-case format.</p> <p>9 BY MR. FREY:</p> <p>10 Q. Are you confident that it was</p> <p>11 collected in the manner that would</p> <p>12 demonstrate how it would have performed on</p> <p>13 election day?</p> <p>14 A. I saw no indications that</p> <p>15 anything was modified on it. And within the</p> <p>16 N-case forensics image format, it has a</p> <p>17 self-validation/verification function. And</p> <p>18 the images -- the image is verified.</p> <p>19 Q. And did you appear as an expert</p> <p>20 witness related to your review of the</p> <p>21 information obtained from Antrim County?</p> <p>22 A. Specific to Antrim County, I</p> <p>23 submitted an affidavit, but it did not reach</p> <p>24 court so I did not testify.</p> <p>25 Q. That litigation was dismissed</p>
<p style="text-align: right;">Page 102</p> <p>1 the other whether BMDs were used in Antrim</p> <p>2 County in the 2020 election?</p> <p>3 A. I don't recall if this was one</p> <p>4 that was actually used or one that they had</p> <p>5 imaged.</p> <p>6 I actually had imaged that one,</p> <p>7 so I don't know if that one was actually used</p> <p>8 in the election or not, so...</p> <p>9 Q. And it sounds like -- you said</p> <p>10 you imaged one thing and then they had imaged</p> <p>11 other things.</p> <p>12 So who did the -- who obtained</p> <p>13 the information that you reviewed --</p> <p>14 A. I'd have to look at the custody</p> <p>15 documents for the exact person, but I believe</p> <p>16 it was a member of an organization called</p> <p>17 ASOC.</p> <p>18 Q. Is that Colonel Waldron's</p> <p>19 organization?</p> <p>20 A. I believe so, yes.</p> <p>21 Q. Do you know the manner in which</p> <p>22 they collected information?</p> <p>23 A. Based on the forensic images</p> <p>24 that I got, it appeared to be created with</p> <p>25 FTK Imager in conjunction with the use of a</p>	<p style="text-align: right;">Page 104</p> <p>1 by the court, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Do you retain control or</p> <p>4 possession of the forensic images from Antrim</p> <p>5 County?</p> <p>6 A. I returned those to the</p> <p>7 attorney.</p> <p>8 Q. Did you review the forensic</p> <p>9 images from Antrim County in the course of</p> <p>10 drafting your declaration in this case?</p> <p>11 A. I reviewed the report at some</p> <p>12 point prior to writing this, but once again,</p> <p>13 that formed the -- kind of the corpus of</p> <p>14 knowledge for paragraphs 20 and 21.</p> <p>15 Q. And in paragraphs 20 and 21,</p> <p>16 you don't cite to any specific, you know,</p> <p>17 findings or Antrim County specifically in</p> <p>18 there, correct?</p> <p>19 A. No, but what I did find was</p> <p>20 consistent among all of the Dominion systems,</p> <p>21 was an -- I would call it a complete and</p> <p>22 utter lack of cyber security practices.</p> <p>23 The systems weren't patched,</p> <p>24 the antivirus wasn't updated, there was no</p> <p>25 mechanism to validate that only certified</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

105-108

<p style="text-align: right;">Page 105</p> <p>1 processes were being run, that only</p> <p>2 authorized MAC addresses were communicating.</p> <p>3 The user passwords had never</p> <p>4 been changed since the date of the</p> <p>5 installation of the software, and there was</p> <p>6 repeated usage of the same password within</p> <p>7 each jurisdiction for all user accounts. And</p> <p>8 that had been across all Dominion.</p> <p>9 Q. And we just -- we don't -- to</p> <p>10 your knowledge, defendants have not produced</p> <p>11 any of the information you're relying on here</p> <p>12 to plaintiffs in this case, right?</p> <p>13 A. No one has asked for it.</p> <p>14 Q. And if the request were made,</p> <p>15 would you be able to provide the images you</p> <p>16 reviewed from Antrim County?</p> <p>17 A. I would, but I would assume</p> <p>18 that that would take a court order, because</p> <p>19 one company is looking at another company's</p> <p>20 proprietary data. But, yes, we would produce</p> <p>21 that.</p> <p>22 Q. Moving on to Mesa County,</p> <p>23 Colorado.</p> <p>24 What voting system information</p> <p>25 did you review from Mesa County, Colorado?</p>	<p style="text-align: right;">Page 107</p> <p>1 exactly what she was charged with.</p> <p>2 BY MR. FREY:</p> <p>3 Q. And you said you got the image</p> <p>4 that you reviewed from her attorneys; is that</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. And was that in connection with</p> <p>8 the defense of her criminal case?</p> <p>9 A. That was my understanding, yes.</p> <p>10 Q. And what work did you do with</p> <p>11 that image?</p> <p>12 A. I was asked to be a</p> <p>13 non-testifying expert and review the findings</p> <p>14 of another team's report.</p> <p>15 Q. Do you maintain control or</p> <p>16 possession of the image of the Dominion EMS</p> <p>17 from Mesa County, Colorado?</p> <p>18 A. I do not.</p> <p>19 Q. Are you relying upon your</p> <p>20 review of the Dominion EMS from Mesa County,</p> <p>21 Colorado in rendering your opinions in this</p> <p>22 case?</p> <p>23 A. Only to the effect of the cyber</p> <p>24 security implications for the election</p> <p>25 systems as a whole.</p>
<p style="text-align: right;">Page 106</p> <p>1 A. I reviewed an image of the</p> <p>2 Dominion EMS.</p> <p>3 Q. So not a ballot-marking device,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. And how did you obtain the</p> <p>7 information or the image of the Dominion EMS</p> <p>8 from Mesa County, Colorado?</p> <p>9 A. I was provided that by the</p> <p>10 legal team that was defending -- I'm sorry, I</p> <p>11 don't remember her name right now -- but the</p> <p>12 County clerk and the election official for</p> <p>13 Mesa County.</p> <p>14 Q. Is it Tina Peters?</p> <p>15 A. It is. Thank you.</p> <p>16 Q. Are you aware, then, that Ms.</p> <p>17 Peters was indicted for copying this election</p> <p>18 software from Mesa County Colorado without</p> <p>19 authorization?</p> <p>20 MR. KACHOUROFF: Objection.</p> <p>21 (Inaudible) hypothetical.</p> <p>22 Go ahead, you can answer the</p> <p>23 question.</p> <p>24 THE WITNESS: I knew she had</p> <p>25 legal problems. I wasn't aware of</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. Okay. What voting system</p> <p>2 information did you review from Coffee</p> <p>3 County, Georgia?</p> <p>4 A. I was retained by Misty</p> <p>5 Hampton's attorney to examine the EMS and one</p> <p>6 ICC notebook as part of her defense for Misty</p> <p>7 Hampton.</p> <p>8 Q. And was that -- excuse me.</p> <p>9 (Discussion off the record.)</p> <p>10 BY MR. FREY:</p> <p>11 Q. So you reviewed the EMS and an</p> <p>12 ICC notebook.</p> <p>13 Was that a Dominion system?</p> <p>14 A. That was, yes.</p> <p>15 Q. And again, that's -- you did</p> <p>16 not review an image of a ballot-marking</p> <p>17 device, correct?</p> <p>18 A. No.</p> <p>19 Q. And do you know how the image</p> <p>20 that you reviewed of the EMS and ICC notebook</p> <p>21 was obtained?</p> <p>22 A. Yes. I was provided that by --</p> <p>23 or provided access to it by Stephanie</p> <p>24 Lambert, who was the attorney for Misty</p> <p>25 Hampton.</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

109-112

<p style="text-align: right;">Page 109</p> <p>1 Q. Okay. And was Ms. Lambert  2 representing Ms. Hampton against the charges  3 that she had illegally obtained this  4 information?  5 A. I don't know exactly what Misty  6 Hampton's charges were, but there was the  7 possibility that she would be charged with  8 something.  9 Q. And what was the purpose of  10 your review of the information?  11 A. I think that gets a little bit  12 into the attorney-client work product piece  13 there, and they have not released that --  14 they have not given me authorization to  15 discuss that.  16 But I will tell you that for  17 the purposes of this declaration, I relied on  18 the general cyber security status indicative  19 on the EMS system.  20 So passwords, remote access,  21 system patches, failure to update the  22 antivirus, and Internet access.  23 Q. And do you maintain control or  24 possession of the this EMS ICC notebook  25 images?</p>	<p style="text-align: right;">Page 111</p> <p>1 iPad. And I visually inspected that, I did  2 not image that device.  3 My purpose there was to  4 validate that the local election clerk had  5 that particular tablet secured behind a lock  6 and key and that it was functional.  7 I subsequently was provided  8 data specific to the databases and the  9 compilation of the votes from the EPB thumb  10 drive for analysis.  11 Q. "EPB," what does EPB stand for?  12 A. Or, I'm sorry -- EDP, Election  13 Database.  14 Q. And how did you obtain -- or  15 who obtained the EDP thumb drive for  16 analysis?  17 A. That would have been the  18 attorney, Ms. Lambert.  19 Q. And do you know how she  20 collected it?  21 A. I do not.  22 Q. Are you aware that also  23 criminal charges were considered against the  24 Adams County clerk related to her disclosure  25 of this voting system information?</p>
<p style="text-align: right;">Page 110</p> <p>1 A. That's an ongoing case, so yes,  2 I still have a copy of those forensic images.  3 Q. And you understand that if it's  4 an ongoing case, that it's not been made  5 available to Smartmatic in this action,  6 correct?  7 A. I certainly have not provided  8 it to you. I don't know if Ms. Lambert has  9 or not.  10 Q. Again, I believe you said  11 you're relying on it to the extent of the  12 opinions you render in paragraphs 20 and 21?  13 A. Correct.  14 Q. And then the last one here,  15 Adams County, Michigan.  16 What voting system information  17 did you review from Adams County, Michigan?  18 A. So that was the Hart  19 Intercivic.  20 (Reporter clarification.  21 BY MR. FREY:  22 Q. What type of election  23 technology -- what were the components that  24 you reviewed from Adams County, Michigan?  25 A. So I looked at the precinct</p>	<p style="text-align: right;">Page 112</p> <p>1 A. I am.  2 Q. And that's the data you  3 obtained?  4 A. Yes. I would like to also  5 clarify that in my engagement letter, I have  6 a paragraph 10 that states -- it's an  7 indemnity clause in which the attorneys I  8 engage represent that all data that they  9 present to me for examination is legally and  10 lawfully obtained, and that they have a right  11 to authorize me to examine it.  12 Q. So you're relying on the  13 attorneys there, correct?  14 A. Correct.  15 Q. And do you still maintain  16 control or possession of the EDP from Adams  17 County?  18 A. I do. It's an ongoing case.  19 Q. Did you rely upon this  20 information from Adams County in rendering  21 your opinions in this case?  22 A. No.  23 Q. Okay.  24 MR. FREY: Let's take another  25 break -- I'm at a good point -- and</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

113-116

<p style="text-align: right;">Page 113</p> <p>1 use five minutes.</p> <p>2 THE VIDEOGRAPHER: Going off</p> <p>3 the record at 12:06 p.m.</p> <p>4 (Break taken.)</p> <p>5 THE VIDEOGRAPHER: We are back</p> <p>6 on the record at 12:41 p.m.</p> <p>7 BY MR. FREY:</p> <p>8 Q. All right. Mr. Cotton, we're</p> <p>9 back on the record. I want to briefly talk</p> <p>10 about the scope of your opinion in this case</p> <p>11 again, and to confirm that -- are the</p> <p>12 opinions you set forth here in your</p> <p>13 declaration the opinions you intend to offer</p> <p>14 at trial in this matter?</p> <p>15 A. Yes.</p> <p>16 Q. Are you planning to offer any</p> <p>17 other opinions not identified in your</p> <p>18 declaration?</p> <p>19 A. I haven't been asked any other</p> <p>20 opinions at this point. If I was asked, I</p> <p>21 would write an addendum, should more</p> <p>22 information become available.</p> <p>23 Q. Do you intend to perform any</p> <p>24 additional analysis?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 115</p> <p>1 Q. Have you watched Mr. Lindell's</p> <p>2 documentary, Absolutely 9-0?</p> <p>3 A. I have not.</p> <p>4 Q. And have you watched Mr.</p> <p>5 Lindell's documentary, Scientific Proof?</p> <p>6 A. I have not.</p> <p>7 Q. You did attend Mr. Lindell's</p> <p>8 cyber symposium in August of 2021, correct?</p> <p>9 A. I went there. The data that I</p> <p>10 had been promised would be provided to me was</p> <p>11 not provided, and so I did not stick around.</p> <p>12 I was not actually part of the symposium.</p> <p>13 Q. And so is it your opinion,</p> <p>14 then, that at least to your review or what</p> <p>15 you have seen, the alleged PCAP data</p> <p>16 demonstrating the November 2020 U.S. election</p> <p>17 was manipulated is not evidence that the</p> <p>18 election was manipulated?</p> <p>19 A. All I can respond to is the</p> <p>20 data that was provided to me. Whether or not</p> <p>21 or that was the entire body of data that was</p> <p>22 provided to the other 15 or 20 experts, I</p> <p>23 cannot opine to.</p> <p>24 But I can tell you that the</p> <p>25 data that was provided to me was not</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. Do you currently intend to</p> <p>2 change any of the opinions set forth in your</p> <p>3 declaration?</p> <p>4 A. No.</p> <p>5 Q. Are you offering any opinions</p> <p>6 in this case on the truth of the statements</p> <p>7 Mr. Lindell published regarding Smartmatic's</p> <p>8 alleged role in the validity of the 2020 U.S.</p> <p>9 election?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of the statements</p> <p>12 Mr. Lindell published regarding Smartmatic</p> <p>13 and its alleged role in manipulating the 2020</p> <p>14 U.S. election?</p> <p>15 A. I am not aware of specific</p> <p>16 statements by Mr. Lindell.</p> <p>17 Q. Have you reviewed Smartmatic's</p> <p>18 first amended complaint in this litigation?</p> <p>19 A. I don't believe I have.</p> <p>20 Q. Have you watched Mr. Lindell's</p> <p>21 documentary, Absolute Proof?</p> <p>22 A. I have not.</p> <p>23 Q. Have you watched Mr. Lindell's</p> <p>24 documentary, Absolute Interference?</p> <p>25 A. I have not.</p>	<p style="text-align: right;">Page 116</p> <p>1 sufficient for me to make an opinion on that.</p> <p>2 Q. And you're not intending to</p> <p>3 offer any affirmative opinions in this case</p> <p>4 regarding the validity of the alleged PCAP</p> <p>5 data, right?</p> <p>6 A. That is not within the scope of</p> <p>7 my declaration.</p> <p>8 Q. Are you aware of statements</p> <p>9 published by Mr. Lindell and Dr. Frank</p> <p>10 regarding a 6th degree polynomial algorithm</p> <p>11 that was used to manipulate the November 2020</p> <p>12 U.S. election?</p> <p>13 A. Only tangentially. I remember</p> <p>14 hearing something about it, and I don't even</p> <p>15 remember where I heard about it.</p> <p>16 But, you know, my area of</p> <p>17 expertise is computer forensics, cyber</p> <p>18 security. So I don't know much about that.</p> <p>19 Q. So you're not going to offer</p> <p>20 any opinions regarding that theory as an</p> <p>21 expert in this case, correct?</p> <p>22 A. No.</p> <p>23 Q. Are you aware of claims made by</p> <p>24 Mr. Lindell and others that cast vote records</p> <p>25 indicate that the election in LA County was</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**117-120**

<p style="text-align: right;">Page 117</p> <p>1 manipulated by Smartmatic?</p> <p>2 A. I am not.</p> <p>3 Q. So is it fair to say that you</p> <p>4 will not be offering any opinions in this</p> <p>5 case regarding what cast vote records may</p> <p>6 indicate regarding the integrity of the 2020</p> <p>7 election in LA County?</p> <p>8 A. That is not currently within</p> <p>9 the scope of my engagement.</p> <p>10 Q. Are you familiar with the</p> <p>11 Election's Infrastructure Government</p> <p>12 Coordinating Council?</p> <p>13 A. Are you talking the DHS entity?</p> <p>14 Q. Yes.</p> <p>15 A. I am aware of it, yes.</p> <p>16 Q. Are you familiar with it at</p> <p>17 all?</p> <p>18 A. To a high-level degree, nothing</p> <p>19 in detail.</p> <p>20 Q. How about the Election</p> <p>21 Infrastructure Sector Coordinating Executive</p> <p>22 Committee?</p> <p>23 A. I'm aware that it exists. I am</p> <p>24 not a member of it.</p> <p>25 Q. Were you aware that on</p>	<p style="text-align: right;">Page 119</p> <p>1 incongruities with the forensics facts versus</p> <p>2 the statement that was released.</p> <p>3 Q. And the basis for that is the</p> <p>4 forensic work you did in Maricopa County,</p> <p>5 Arizona; is that right?</p> <p>6 A. Maricopa, Antrim, and Georgia.</p> <p>7 During the case of Antrim, there was clearly</p> <p>8 votes that were flipped. There's still some</p> <p>9 debate a bit about why that happened, but the</p> <p>10 clerk caught those. So we do know that that</p> <p>11 did occur, but that was corrected.</p> <p>12 So, you know, there are some</p> <p>13 inconsistencies with the absolute statement</p> <p>14 on that report that they released.</p> <p>15 Q. Are you intending to offer</p> <p>16 opinions in this case regarding the outcome</p> <p>17 of elections in Michigan, Arizona, or</p> <p>18 Georgia?</p> <p>19 A. That's not within the scope.</p> <p>20 And I will tell you that my testimony will be</p> <p>21 centered around forensics findings and</p> <p>22 forensics evidence on the systems that I have</p> <p>23 examined.</p> <p>24 Q. Are you aware of any evidence</p> <p>25 of actual voter manipulation or actual vote</p>
<p style="text-align: right;">Page 118</p> <p>1 November 12, 2020, these two -- that the</p> <p>2 EIGCC and the EISEC issued a report stating</p> <p>3 that the November 3rd election was the most</p> <p>4 secure in American history, and that there's</p> <p>5 no evidence of any voting system lost -- any</p> <p>6 voting system lost or deleted votes, changed</p> <p>7 votes, or was in any way compromised?</p> <p>8 A. I am aware they issued that</p> <p>9 report, yes.</p> <p>10 Q. Do you disagree with that</p> <p>11 statement?</p> <p>12 A. I do disagree, to the extent of</p> <p>13 my knowledge on the systems that I have</p> <p>14 examined.</p> <p>15 In the case of Arizona for</p> <p>16 example, there were several hundred thousand</p> <p>17 ballots deleted off of the EMS by the time</p> <p>18 that we received that. Some of those were</p> <p>19 actually during the election time period.</p> <p>20 So I would have to understand</p> <p>21 better the full scope and the basis for their</p> <p>22 statement before I could really opine on the</p> <p>23 validity of it.</p> <p>24 But I know from personal</p> <p>25 experience, there do appear to be some</p>	<p style="text-align: right;">Page 120</p> <p>1 manipulation occurring in LA County in the</p> <p>2 November 2020 U.S. election?</p> <p>3 A. I have not been able to examine</p> <p>4 the actual systems. So once again, from a</p> <p>5 forensics standpoint, I am not aware because</p> <p>6 I have not been able to examine the actual</p> <p>7 systems.</p> <p>8 Q. And I believe in preparing your</p> <p>9 declaration, you reviewed a number of</p> <p>10 documents related to the VSAP 2.1</p> <p>11 certification, right? Those are listed in</p> <p>12 paragraph 14 of your -- or 13 of your report?</p> <p>13 A. That is correct.</p> <p>14 Q. And aside from reading these</p> <p>15 documents and the version 3.0 certification</p> <p>16 documents, what else did you do to</p> <p>17 familiarize yourself will the LA County VSAP</p> <p>18 initiative?</p> <p>19 A. I obviously read the web page</p> <p>20 articles that they had. Anything related to</p> <p>21 VSAP, I reviewed those pages. And I reviewed</p> <p>22 the reports, I reviewed the source code</p> <p>23 report and those items as listed in my</p> <p>24 declaration.</p> <p>25 Q. What is your understanding of</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

121-124

<p style="text-align: right;">Page 121</p> <p>1 the components of the VSAP system used in  2 November 2020 that were manufactured or  3 designed by Smartmatic?  4 A. Well, I looked at it from --  5 from a systematic hold perspective. And so,  6 you know, there's various components.  7 My understanding is that  8 Smartmatic has a component within all of  9 those related systems. My scope of this work  10 was not related specifically to Smartmatic,  11 it was to the VSAP system.  12 Q. So in -- I guess, in performing  13 your work, you didn't worry so much about  14 whether it was a Smartmatic manufactured  15 component versus a component manufactured by  16 someone else?  17 A. That's correct.  18 Q. Okay. In the course of your  19 analysis in this case, did you explicitly  20 analyze or consider the ballot marking  21 devices?  22 A. Only to the extent that there  23 were reports or evaluations based on those  24 ballot marking devices.  25 Q. What is your understanding of</p>	<p style="text-align: right;">Page 123</p> <p>1 A. I do not recall. That would be  2 in the user's manual.  3 Q. Do you know whether the ballot  4 marking devices used in LA County in  5 November 2020 tabulated votes?  6 A. I believe those votes were  7 transmitted to a central tallying facility.  8 I believe that was called BMG.  9 Q. Do you know whether the ballot  10 marking devices used in LA County in  11 November 2020 would store votes?  12 A. It would obviously store those  13 votes prior in some medium, either in memory  14 or on thumb drive or removable media, until  15 those votes were transmitted to the central  16 counting facility.  17 Q. Do you know whether the  18 ballot-marking devices used in LA County in  19 November 2020 generated a paper ballot?  20 A. I do not know.  21 Q. What is your understanding of  22 BMG system in LA County's VSAP initiative?  23 A. So the BMG is basically a  24 manager for all of the ballot-marking  25 devices, and also contains some capacity or</p>
<p style="text-align: right;">Page 122</p> <p>1 the functionality of a ballot-marking device?  2 A. Well, a ballot-marking device  3 is a computing device that contains  4 vendor-specific application software that a  5 user either disabled or, in some  6 jurisdictions -- like in Georgia, for  7 example -- they do this for all voters.  8 But through the interaction of  9 the user and the application, they were able  10 to indicate on a stored ballot what their  11 voting preferences are, and then that vote is  12 tallied and recorded as part of the voting  13 process.  14 In some cases, they will  15 present a screen after the user has selected  16 the votes and the voter will confirm on the  17 screen; or in some cases, they actually print  18 something out and the voter supposedly looks  19 at that, validates it.  20 And then once they commit, then  21 that vote is considered closed and is then  22 counted as part of the election process.  23 Q. Do you know in LA County,  24 whether the BMD printed out the ballot before  25 allowing the voter to cast their ballot?</p>	<p style="text-align: right;">Page 124</p> <p>1 the function for a centralized repository for  2 the different voting tabulations.  3 Q. When you say "a centralized  4 repository for the different voting  5 tabulations," could you explain what you mean  6 by that?  7 A. Well, the votes can be  8 transmitted to that BMG and then aggregated  9 into a total.  10 Q. What is the basis for your  11 understanding in that regard?  12 A. My review of the user's manual.  13 Q. It's your understanding there  14 that the BMG would take a record of an  15 electronic record of the vote from the  16 ballot-marking device?  17 A. It can. I haven't examined the  18 actual systems that were used in the  19 election, so I don't know what their  20 configuration was or how they functioned in  21 that particular election.  22 Q. If the BMG did not create an  23 electronic record of a vote, would that  24 impact your opinions at all?  25 A. No, because I'm approaching</p>



BENJAMIN COTTON  
Smartmatic USA Corp vs Michael J. LindellAugust 08, 2024  
125-128

<p style="text-align: right;">Page 125</p> <p>1 this from a cyber security perspective, can 2 you get remote access to an individual 3 component? 4 The ATSEC report evaluated all 5 of the different components, not just the 6 BMG. So it wouldn't change my opinions. 7 Q. In forming your opinions in 8 this case with respect to the ability to 9 remote -- to gain remote access, have you 10 formed opinions or do you have opinions 11 regarding what could or could not be done 12 with that remote access? 13 A. I have some opinions to that. 14 And obviously, as I get the opportunity to 15 examine these specific devices, I would form 16 more. 17 But based on the 18 vulnerabilities that are in the ATSEC report, 19 you have the ability to iterate the running 20 processes remotely. 21 You have the ability to inject 22 -- do memory injections on these devices. 23 You have the ability to perform buffer 24 overflows on these devices. 25 You have the ability to</p>	<p style="text-align: right;">Page 127</p> <p>1 communicating with those ports. 2 Q. So if a port was fingerprinted, 3 I suppose, what would someone do with that? 4 A. Just as one example, they run 5 SQLite databases. SQLite databases could 6 communicate on port 1443 and 1445. 7 If you fingerprint a port, one, 8 you validate that they are running SQL; and 9 two, you know exactly which ports they are so 10 that you can then craft buffer overflows that 11 you may be able to get command line access 12 back into the SQL server for that port. 13 That's just one example of 14 that. 15 Q. What do you mean by "a buffer 16 overflow"? 17 A. So a buffer overflow is a 18 specific type of vulnerability in which you 19 send a specific formed packet to that device, 20 and that -- the packet instructions will 21 exceed the expected buffer length for a given 22 technology. 23 So SQL, for example: It's 24 expecting a payload package with X-amount of 25 characters in it. If you -- for a buffer</p>
<p style="text-align: right;">Page 126</p> <p>1 manipulate vulnerabilities, such that you 2 could overwrite specific files within these 3 end points. 4 And you have the ability to 5 escalate your user privileges if you do have 6 access to the systems. 7 Q. I want to take those one at a 8 time. 9 So the first thing you said, I 10 believe, is the ability to iterate running 11 processes. 12 What do you mean by "iterate 13 running processes"? 14 A. Well, there's no protection on 15 the ports, from what I can tell, on the 16 vulnerability listings to prevent the 17 interrogation of the devices. 18 And based on the return of the 19 -- it's called fingerprinting your ports, 20 okay? 21 So there's no protection that I 22 can see, either from a firewall or other 23 methodology, that would prevent the 24 fingerprinting of those ports so that you 25 understand what processes are running and</p>	<p style="text-align: right;">Page 128</p> <p>1 overflow, what you can do is, once that 2 expected length of a packet is reached, you 3 can then insert commands and specific code 4 after that so that it is executed in memory. 5 And per the -- per the report, 6 they did not appear to have -- or those 7 systems were susceptible to buffer overflow 8 methodologies, and that's in the ATSEC 9 report. 10 Q. So if the buffer overflow 11 methodology is used and a specific code is 12 put into a BMD, what impact, if any, would 13 that have? 14 A. Well, it depends on what your 15 attacking and what the code is. But 16 theoretically, you could change the contents 17 of the local database on the BMD. 18 You could change the CVR. You 19 could change the ballot image that's 20 presented to the voter. 21 I mean, you know, it really 22 depends on what your objective is as an 23 intruder or a hacker at that particular 24 point, as to what you could do. 25 Q. And do you agree that if the</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**  
**129-132**

<p style="text-align: right;">Page 129</p> <p>1 voter has an opportunity to look at the</p> <p>2 ballot that they've marked with the BMD after</p> <p>3 they've marked it, they would become aware of</p> <p>4 any changes that were made to their vote?</p> <p>5 A. Yes and no. They certainly</p> <p>6 would reflect the changes that they'd made at</p> <p>7 that point in time, but that vote is not</p> <p>8 committed to the database or to the CVR at</p> <p>9 that point.</p> <p>10 It's only after they accept</p> <p>11 the, you know, there's a check and balance</p> <p>12 and you click "Continue" or something on</p> <p>13 this, to -- to basically commit the vote.</p> <p>14 And at that point, that would</p> <p>15 be recorded in the CVR and that would also be</p> <p>16 recorded as part of the count.</p> <p>17 If there's a manipulation after</p> <p>18 that individual reviewed the ballot selection</p> <p>19 and before it was written to the CVR, they</p> <p>20 would not know that.</p> <p>21 Q. And for purposes of what you</p> <p>22 just discussed, is your assumption that the</p> <p>23 ballot-marking device electronically stores</p> <p>24 the cast vote record?</p> <p>25 A. Well, it certainly has that</p>	<p style="text-align: right;">Page 131</p> <p>1 detail on their website.</p> <p>2 Q. Going back to the components of</p> <p>3 the VSAP program, what is your understanding</p> <p>4 of the enterprise signing authority component</p> <p>5 of the VSAP system?</p> <p>6 A. So the enterprise signing</p> <p>7 authority would be the centralized crypto</p> <p>8 repository that would digitally sign</p> <p>9 individual items based on the cryptological</p> <p>10 keys contained within that device.</p> <p>11 Q. And your knowledge regarding</p> <p>12 the enterprise signing authority, does that</p> <p>13 come from the documentation you reviewed?</p> <p>14 A. It does, and also basic</p> <p>15 computer security knowledge. That's not an</p> <p>16 uncommon practice.</p> <p>17 Q. Do you have an understanding of</p> <p>18 the cryptographic system that was employed by</p> <p>19 the enterprise signing authority in the VSAP</p> <p>20 system?</p> <p>21 A. I do not, because I have not</p> <p>22 been able to examine the actual systems that</p> <p>23 were used in the election.</p> <p>24 Q. Do you have an understanding as</p> <p>25 to what the documentation and use procedures</p>
<p style="text-align: right;">Page 130</p> <p>1 information in memory at the minimum until</p> <p>2 the vote is committed. And then it may</p> <p>3 transmit that to another location or store it</p> <p>4 locally, so...</p> <p>5 Q. Do you have any opinions with</p> <p>6 respect to how an audit of paper ballots</p> <p>7 against an electronic record could mitigate</p> <p>8 potential risks?</p> <p>9 A. Well, I certainly have some</p> <p>10 concepts that I would use if I were testing.</p> <p>11 I don't know what LA County is actually</p> <p>12 implementing on this.</p> <p>13 But if you had an independent</p> <p>14 program that scanned the retained ballot</p> <p>15 images, and then you compared that against</p> <p>16 the CVRs, that would give you a pretty good</p> <p>17 indication if there were issues there with</p> <p>18 the count.</p> <p>19 Q. For purposes of forming your</p> <p>20 opinions in this case, did you review any</p> <p>21 information or analyze any information with</p> <p>22 respect to the audit procedures that the LA</p> <p>23 County did use in November 2020?</p> <p>24 A. Only what was contained on the</p> <p>25 websites, and I don't remember anything in</p>	<p style="text-align: right;">Page 132</p> <p>1 set forth regarding the cryptographic system</p> <p>2 that would be employed by the enterprise</p> <p>3 signing authority?</p> <p>4 A. I did review those as part of</p> <p>5 the user manual and the setup procedures. I</p> <p>6 don't really recall those at this point.</p> <p>7 I do recall that, based on the</p> <p>8 ATSEC report, that they had a FIPS-compliant</p> <p>9 algorithm.</p> <p>10 But it could not be a</p> <p>11 FIPS-certified system because that operating</p> <p>12 system had not been tested in conjunction</p> <p>13 with that algorithm.</p> <p>14 Q. What is your understanding of</p> <p>15 the mechanism by which the enterprise signing</p> <p>16 authority managed cryptographic keys related</p> <p>17 to authorization?</p> <p>18 A. I don't recall the exact</p> <p>19 procedures, but essentially they would import</p> <p>20 a certificate, and that certificate was then</p> <p>21 used as the basis for the signing authority.</p> <p>22 Q. And what is your understanding</p> <p>23 of the mechanism by which the enterprise</p> <p>24 signing authority managed authentication in</p> <p>25 the VSAP system used in the November 2020</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

133-136

<p style="text-align: right;">Page 133</p> <p>1 election?</p> <p>2 A. Once again, I haven't been able</p> <p>3 to examine any of the systems, so I don't</p> <p>4 know how they were configured and how they</p> <p>5 actually operated.</p> <p>6 Q. Do you have any understanding</p> <p>7 of the mechanism by which the enterprise</p> <p>8 signing authority managed data integrity in</p> <p>9 the November 2020 U.S. election?</p> <p>10 A. I remember that they would use</p> <p>11 Shaw values, typically Shaw-1 values on</p> <p>12 executables. And they would use public</p> <p>13 private keys on some of the authentication</p> <p>14 mechanisms.</p> <p>15 Q. And you were able to learn that</p> <p>16 information from the documentation</p> <p>17 surrounding the VSAP system, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And what is your understanding</p> <p>20 of the trusted platform modules employed by</p> <p>21 the VSAP system used in the November 2020</p> <p>22 U.S. election?</p> <p>23 A. Well, as a -- by definition, a</p> <p>24 trusted module is one that has been</p> <p>25 authenticated, the hash values are listed</p>	<p style="text-align: right;">Page 135</p> <p>1 Q. You understand -- or do you</p> <p>2 understand that the election occurred on</p> <p>3 November 3rd, 2020, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And in your report, you</p> <p>6 highlight a number of issues found by the</p> <p>7 ATSEC report.</p> <p>8 Are you aware of or did you</p> <p>9 analyze whether any of these deficiencies</p> <p>10 were corrected or ameliorated in advance of</p> <p>11 the November 2020 election?</p> <p>12 A. I reviewed -- so, the bottom</p> <p>13 line is, I reviewed the documentation to look</p> <p>14 for any corrections, because that would have</p> <p>15 required a recertification of the systems</p> <p>16 themselves by the VSAP people.</p> <p>17 And I did not see any</p> <p>18 indication that they had performed a</p> <p>19 recertification or had done additional</p> <p>20 testing after they had modified or changed</p> <p>21 the code.</p> <p>22 Q. Do you know what date the VSAP</p> <p>23 system was certified?</p> <p>24 A. I would have to look. I don't</p> <p>25 recall that off the top of my head.</p>
<p style="text-align: right;">Page 134</p> <p>1 with the group baseline. And in some cases,</p> <p>2 the MAC addresses are part of that trusted</p> <p>3 system, so you wouldn't accept MAC addressed</p> <p>4 or data from MAC addresses that year from</p> <p>5 beyond a certain baseline.</p> <p>6 But once again, I can't render</p> <p>7 an opinion on that as it pertains the 2021</p> <p>8 [sic] election, because I haven't been able</p> <p>9 to examine the systems to determine whether</p> <p>10 or not that was properly configured or not.</p> <p>11 Q. So you've been talking a lot</p> <p>12 about the ATSEC report, and you have a few</p> <p>13 points on that in paragraphs 15 and 16 of</p> <p>14 your declaration, correct?</p> <p>15 A. Let me review here, real quick.</p> <p>16 Q. Okay.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And so the ATSEC report,</p> <p>19 which we marked as Exhibit 706 for the</p> <p>20 record, the date of this is January 6, 2020,</p> <p>21 correct?</p> <p>22 A. I believe so.</p> <p>23 Q. And the --</p> <p>24 A. Well, the ATSEC report that I</p> <p>25 am looking at is January 6, 2020, yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. Do you recall whether the VSAP</p> <p>2 system was certified before or after</p> <p>3 January 6, 2020?</p> <p>4 A. Well, it would have been</p> <p>5 certified after, because they would have</p> <p>6 relied on this ATSEC report as part of the</p> <p>7 basis for that certification.</p> <p>8 Q. And do you recall one way or</p> <p>9 another whether any additional testing was</p> <p>10 performed on the VSAP system between the time</p> <p>11 of issuance of the ATSEC report and the date</p> <p>12 of the election?</p> <p>13 A. I don't recall seeing any in --</p> <p>14 on the website for the County.</p> <p>15 Q. What is your understanding of</p> <p>16 the purpose of security testing such as that</p> <p>17 performed by ATSEC?</p> <p>18 A. Well, the basic code review is</p> <p>19 to determine whether or not there are</p> <p>20 vulnerabilities that exist in a given system</p> <p>21 that would cause it to be vulnerable from</p> <p>22 remote unauthorized use or access.</p> <p>23 Q. And do you understand that the</p> <p>24 purpose of the testing is to identify</p> <p>25 vulnerabilities so that they can be corrected</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**137-140**

<p style="text-align: right;">Page 137</p> <p>1 to obtain certification?</p> <p>2 A. Well, the ATSEC report is</p> <p>3 certainly used to identify vulnerabilities.</p> <p>4 The follow-on remediation piece, that's</p> <p>5 entirely up to the County, whether or not</p> <p>6 they want to address those or try to use</p> <p>7 compensating controls for those</p> <p>8 vulnerabilities.</p> <p>9 Q. Did you review any</p> <p>10 documentation from the County regarding how</p> <p>11 they were addressing identifying</p> <p>12 vulnerabilities?</p> <p>13 A. I don't recall reviewing a</p> <p>14 document in which they addressed the</p> <p>15 vulnerabilities.</p> <p>16 Q. And you did not review any</p> <p>17 documents not listed in your report here, at</p> <p>18 page --</p> <p>19 A. Well, I've indicated that I did</p> <p>20 look at the websites for LA County, and I</p> <p>21 didn't list every website and things.</p> <p>22 But the documents listed in my</p> <p>23 declaration are the primary basis for my</p> <p>24 report.</p> <p>25 Q. So there's a -- Item 13-D in</p>	<p style="text-align: right;">Page 139</p> <p>1 Q. And if you go to the fifth page</p> <p>2 of the document, do you see that it lists the</p> <p>3 source code findings review and then the</p> <p>4 staff analysis of that finding?</p> <p>5 A. Yeah.</p> <p>6 Q. And various of these indicate</p> <p>7 that the finding was resolved, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Walking through this</p> <p>10 paragraph 15 of your report, in item C, you</p> <p>11 say, "A static code analysis by ATSEC</p> <p>12 revealed 14 low severity findings," correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know whether or not</p> <p>15 those findings are the ones that are resolved</p> <p>16 here in --</p> <p>17 A. So here's what I will say, is</p> <p>18 that some of those findings are addressed in</p> <p>19 this. However, if you look at the resolve,</p> <p>20 they're actually not resolved.</p> <p>21 So basically, they have</p> <p>22 attempted to put in some compensating</p> <p>23 controls to mitigate the effects of those</p> <p>24 particular vulnerabilities.</p> <p>25 Specific is the Air Gap system,</p>
<p style="text-align: right;">Page 138</p> <p>1 your report is, County of Los Angeles VSAP</p> <p>2 2.1 Stat Report, a PDF, correct?</p> <p>3 A. Correct.</p> <p>4 Q. I'm going to put a document</p> <p>5 into the chat, which will be Exhibit 707 --</p> <p>6 709.</p> <p>7 I apologize. This will be 708.</p> <p>8 The document for the record with Bates</p> <p>9 identifier Smartmatic-Lindell 00017735.</p> <p>10 (Exhibit No. 708 marked for</p> <p>11 identification.)</p> <p>12 BY MR. FREY:</p> <p>13 Q. Let me know when you have that,</p> <p>14 Mr. Cotton.</p> <p>15 A. I have that.</p> <p>16 Q. All right. Do you see that</p> <p>17 this is a County of Los Angeles VSAP Tally</p> <p>18 Voting System Staff Report, dated August 14,</p> <p>19 2020?</p> <p>20 A. I do.</p> <p>21 Q. Did you -- is this the document</p> <p>22 you reviewed in forming your opinions on the</p> <p>23 case?</p> <p>24 A. Yes, this is the one that is</p> <p>25 listed in my declaration.</p>	<p style="text-align: right;">Page 140</p> <p>1 and that's used on a number of these cases</p> <p>2 that says, Well, we don't have to worry about</p> <p>3 this because it's an Air Gap system.</p> <p>4 Okay. The challenge with that</p> <p>5 is: One, it doesn't address any insider</p> <p>6 threat. So if a user -- a malicious user has</p> <p>7 authorized access to that Air Gap system,</p> <p>8 then the vulnerability is still there, okay?</p> <p>9 If someone penetrates that Air</p> <p>10 Gap system through island-hopping or some</p> <p>11 other mechanism, then that vulnerability is</p> <p>12 still there. So it's not resolved in the</p> <p>13 formal sense of that word, as in it doesn't</p> <p>14 exist anymore.</p> <p>15 It still exists, but they have</p> <p>16 attempted to put in a compensating control</p> <p>17 for that.</p> <p>18 Q. And the control that is put in</p> <p>19 is meant to protect the integrity of the</p> <p>20 voting results in the election, right?</p> <p>21 A. It's an effort to protect the</p> <p>22 system, yes.</p> <p>23 Q. And so, just so I understand</p> <p>24 your opinions here, are you not concerned</p> <p>25 about -- or are you not taking into account</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

141-144

<p style="text-align: right;">Page 141</p> <p>1 efforts that would protect the integrity of</p> <p>2 the system if there is still a technical</p> <p>3 vulnerability in the software?</p> <p>4 A. You know, I've been doing</p> <p>5 incident response for a long time. And I</p> <p>6 have been dealing with hackers for a long</p> <p>7 time.</p> <p>8 And I have dealt in the U.S.</p> <p>9 government on the classified side of programs</p> <p>10 as a contractor. And I know the techniques</p> <p>11 and the methodologies by which you can bypass</p> <p>12 these compensating controls. So I recognize</p> <p>13 the fact that they put a compensating control</p> <p>14 in place.</p> <p>15 But if, you know, there's this</p> <p>16 little problem with people in the middle of</p> <p>17 these things, right? How do they implement</p> <p>18 them? How did they set that up? How did</p> <p>19 they configure these systems in conjunction</p> <p>20 with the compensating controls to ensure that</p> <p>21 they weren't exploited, right?</p> <p>22 So you may have heard of</p> <p>23 Stuxnet, that's a pretty famous open source</p> <p>24 vulnerability that jumps Air Gap systems, and</p> <p>25 it does it through devices.</p>	<p style="text-align: right;">Page 143</p> <p>1 Q. And for each of these</p> <p>2 interfaces, are you differentiating whether</p> <p>3 it was on a Smartmatic device or a different</p> <p>4 component of the VSAP system?</p> <p>5 A. So the VSAP system looked at</p> <p>6 all components as a whole. So I didn't</p> <p>7 differentiate that Smartmatic has this</p> <p>8 specific, you know, thing -- only Smartmatic,</p> <p>9 et cetera.</p> <p>10 Q. Item D on your list says,</p> <p>11 "Remote voting is provided by Amazon web</p> <p>12 servers and is open to the public Internet."</p> <p>13 What is the basis for your</p> <p>14 statement there?</p> <p>15 A. Specifically, I believe it's</p> <p>16 the -- within the report, as they're listing</p> <p>17 the dependencies of these different</p> <p>18 components, there's a specific listing in</p> <p>19 there, both on the ATSEC report and this is</p> <p>20 referenced also in the user guide for Amazon</p> <p>21 web services. And so it relies on Amazon web</p> <p>22 services for its functionality.</p> <p>23 Q. And what is your understanding</p> <p>24 as to how it relies on Amazon web services?</p> <p>25 A. My understanding is that it</p>
<p style="text-align: right;">Page 142</p> <p>1 Another common methodology is</p> <p>2 island-hopping, where someone -- either</p> <p>3 witting or unwitting -- establishes a</p> <p>4 connection on an Air Gap system through an</p> <p>5 external wi-fi or other mechanism.</p> <p>6 So there are multiple ways that</p> <p>7 you could bypass these mechanisms. I</p> <p>8 recognize the fact that they are in place and</p> <p>9 they're attempting to use that as a</p> <p>10 compensating control.</p> <p>11 But without actually examining</p> <p>12 the system to determine whether or not those</p> <p>13 controls were effective, is a different</p> <p>14 matter entirely.</p> <p>15 Q. Moving on to paragraph 16 of</p> <p>16 your report, you say:</p> <p>17 "Based on my review of the</p> <p>18 ATSEC source code review report, the</p> <p>19 Smartmatic and VSAP devices have the</p> <p>20 following interfaces that are used for</p> <p>21 data transfer and communications with</p> <p>22 other network devices."</p> <p>23 And then you list A to K,</p> <p>24 correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 144</p> <p>1 uses the S-3 buckets as a repository for</p> <p>2 data.</p> <p>3 Q. And do you -- what is your</p> <p>4 understanding of whether that -- Amazon web</p> <p>5 service's use is implemented through a</p> <p>6 Smartmatic-manufactured component of VSAP,</p> <p>7 versus some other component of the VSAP</p> <p>8 system?</p> <p>9 A. Well, just if you'd allow me to</p> <p>10 look at the ATSEC, I'll tell you exactly</p> <p>11 which component. Just one minute.</p> <p>12 So it's the ISB.</p> <p>13 Q. What page are you looking at?</p> <p>14 A. On the ATSEC, it's page 15.</p> <p>15 Q. Page 15 -- okay. Next to ISB.</p> <p>16 A. Yeah. "Amazon services is used</p> <p>17 for cloud-based hosting and storage."</p> <p>18 Q. And is this statement here on</p> <p>19 page 15, is that -- that the reference that</p> <p>20 you are relying on for inclusion of this</p> <p>21 Amazon web servers --</p> <p>22 A. That's also referred to in the</p> <p>23 user guide, the user manual as well.</p> <p>24 Q. Did you say before that was the</p> <p>25 user guide for 3.0? Or for 2.1?</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

145-148

<p style="text-align: right;">Page 145</p> <p>1 A. It exists in both.</p> <p>2 Q. And is that also -- is your</p> <p>3 understanding that that's also related to</p> <p>4 ISB?</p> <p>5 A. Well, in the user manual, it's</p> <p>6 more related to the remote-voting function</p> <p>7 rather than a specific device.</p> <p>8 There's also indications, you</p> <p>9 notice that it says "cloud-based hosting."</p> <p>10 And there are some -- some references to</p> <p>11 loading virtual hosts as part of their -- as</p> <p>12 part of the ATSEC testing, and that came from</p> <p>13 the Amazon web hosting functions.</p> <p>14 So it's indeterminate as to how</p> <p>15 many systems are up there, but there</p> <p>16 certainly exists virtual systems in the</p> <p>17 Amazon cloud hosting environment.</p> <p>18 Q. And your understanding is,</p> <p>19 that's related to the ISB, correct?</p> <p>20 A. The ISB is where, in this</p> <p>21 particular case, the hosting and storage is</p> <p>22 correlated.</p> <p>23 However, when you look at the</p> <p>24 network diagram in the user guides, it does</p> <p>25 not show an Air Gap from the ISB to the rest</p>	<p style="text-align: right;">Page 147</p> <p>1 inside of the VSAP system.</p> <p>2 Q. And is your opinion that the</p> <p>3 Amazon web servers, through the ISB, get an</p> <p>4 access point, based on your understanding</p> <p>5 that a person can access the Internet and</p> <p>6 vote remotely?</p> <p>7 A. Yes.</p> <p>8 Q. Looking at this paragraph 16</p> <p>9 again. So -- and I'm just trying to</p> <p>10 understand this here. So it's -- it starts</p> <p>11 by saying, you know, there's the following</p> <p>12 interfaces used for data transfer, and it</p> <p>13 lists USB ports, ethernet interfaces, network</p> <p>14 switches, the election central and remote</p> <p>15 voting sites used ethernet for open</p> <p>16 connectivity, remote voting.</p> <p>17 And then there's wireless and</p> <p>18 Bluetooth capabilities that are reported to</p> <p>19 be disabled, right?</p> <p>20 A. Yes.</p> <p>21 Q. And then, starting with G, is</p> <p>22 this no longer a list of the interfaces, but</p> <p>23 rather separate observations or opinions?</p> <p>24 A. So these are extracts from</p> <p>25 various reports that were reported as part of</p>
<p style="text-align: right;">Page 146</p> <p>1 of the network.</p> <p>2 And what's important to</p> <p>3 understand from an access and a vulnerability</p> <p>4 standpoint is that it just takes one access</p> <p>5 point, and you can use that to leverage or</p> <p>6 access the entire network.</p> <p>7 Q. What is your understanding of</p> <p>8 what the ISB is?</p> <p>9 A. I don't recall at this point.</p> <p>10 You know, my top level understanding is that</p> <p>11 it's a remote voter function within the VSAP</p> <p>12 system.</p> <p>13 Q. If I told you it stands for</p> <p>14 Interactive Sample Ballot, does that help at</p> <p>15 all?</p> <p>16 A. Well, yeah. So, you know, they</p> <p>17 would be presenting the ballot images and</p> <p>18 things like that, as well as that remote</p> <p>19 access voting piece.</p> <p>20 Q. And what's your understanding</p> <p>21 of how the remote -- remote voting would work</p> <p>22 in the VSAP initiative?</p> <p>23 A. Well, basically, somebody can</p> <p>24 access through the Internet this function and</p> <p>25 vote remotely, and that vote is recorded</p>	<p style="text-align: right;">Page 148</p> <p>1 the documentation that I reviewed. So for</p> <p>2 example, "J: The VSAP code contains</p> <p>3 hard-coded passwords in the code," that's out</p> <p>4 of the ATSEC report.</p> <p>5 Q. That's J? Okay.</p> <p>6 Do you recall the source for</p> <p>7 item G?</p> <p>8 A. I would have to look and see</p> <p>9 where that came from, but it's from one of</p> <p>10 the documents that I reviewed.</p> <p>11 Q. And how does that finding in</p> <p>12 item G, how does that impact your opinions</p> <p>13 here? What's the relevance?</p> <p>14 A. So the relevance is, is that</p> <p>15 even if I was able to examine one of the</p> <p>16 these systems, that they are not logging the</p> <p>17 proper elements that would be required to</p> <p>18 prove whether or not there was an</p> <p>19 unauthorized remote access.</p> <p>20 Q. And then in H, you say:</p> <p>21 "The source code contains a</p> <p>22 significant number of source code</p> <p>23 files from third-party providers.</p> <p>24 These third party source code files</p> <p>25 are not part of the scope of</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

149-152

<p style="text-align: right;">Page 149</p> <p>1 evaluation and were not included in</p> <p>2 the analysis."</p> <p>3 Is that in reference to the</p> <p>4 ATSEC analysis? Or to your analysis?</p> <p>5 A. It is, it's ATSEC analysis.</p> <p>6 That's one of their qualifying statements.</p> <p>7 So what that means is, they have 17</p> <p>8 vulnerabilities that they discovered.</p> <p>9 They term those as "low-level</p> <p>10 vulnerabilities," but they didn't do a full</p> <p>11 analysis of all the vulnerabilities of the</p> <p>12 third-party software packages that are</p> <p>13 contained on these systems.</p> <p>14 Now, I believe it's on --</p> <p>15 within the ATSEC report, there are 30 pages</p> <p>16 of CVE vulnerability reporting that are</p> <p>17 primarily from third-party packages, but I</p> <p>18 don't know that that's all of them.</p> <p>19 And I believe that starts on</p> <p>20 page 45, I think -- yeah, 45 to 75.</p> <p>21 Q. In 16(f), where you say:</p> <p>22 "The devices have other</p> <p>23 wireless and Bluetooth capabilities."</p> <p>24 Do you know which devices are</p> <p>25 reported to have wireless and</p>	<p style="text-align: right;">Page 151</p> <p>1 "non, produced from low due to response"?</p> <p>2 A. I see that.</p> <p>3 Q. And would that be another</p> <p>4 instance where, in your opinion, there's</p> <p>5 ameliorating or compensating component put</p> <p>6 in, but the vulnerability still exists?</p> <p>7 A. Correct. And I don't know what</p> <p>8 that response is, so you know, I can't</p> <p>9 address the effectiveness of it.</p> <p>10 Q. Well, if you look at the next</p> <p>11 column to the left, it says "Developer</p> <p>12 Response," right?</p> <p>13 A. Correct.</p> <p>14 Q. So I believe that's</p> <p>15 providing --</p> <p>16 A. Oh, that's their response. But</p> <p>17 if you read that on the third bullet there,</p> <p>18 the 723-F.F, it says:</p> <p>19 "Shall allow the administrator</p> <p>20 group to configure the lockout</p> <p>21 policy."</p> <p>22 This system was as configured,</p> <p>23 supposedly, as it was going to be</p> <p>24 deployed. And that was not set.</p> <p>25 So if the -- you know, like I</p>
<p style="text-align: right;">Page 150</p> <p>1 Bluetooth capabilities?</p> <p>2 A. I would have to generate a list</p> <p>3 for you on that.</p> <p>4 Q. And then in Item 16(k), it</p> <p>5 states:</p> <p>6 "No user lockout values are set</p> <p>7 for invalid password attempts, thus</p> <p>8 permitting unlimited password guesses,</p> <p>9 and/or group crack" --</p> <p>10 (Reporter clarification.)</p> <p>11 MR. FREY: I'm sorry.</p> <p>12 "Cracking attempts."</p> <p>13 BY MR. FREY:</p> <p>14 Q. Is that from the ATSEC report</p> <p>15 as well?</p> <p>16 A. It is.</p> <p>17 Q. Do you see on page 81 of the</p> <p>18 ATSEC report, and Item 12, no default values</p> <p>19 are set for lockout policies or invalid</p> <p>20 password attempts. That's a description of</p> <p>21 the finding, right? Is that the finding that</p> <p>22 you're discussing here?</p> <p>23 A. Yes.</p> <p>24 Q. And you see in the right-hand</p> <p>25 column, it lists of "severity," and it says</p>	<p style="text-align: right;">Page 152</p> <p>1 said, from a response perspective, if</p> <p>2 they said, Hey, we're going to fix it,</p> <p>3 they would have noted that here to</p> <p>4 reduce from "low" to "non."</p> <p>5 But, you know, the devil is</p> <p>6 always in the details in a lot of</p> <p>7 these settings, and there are humans</p> <p>8 involved, right? So did they properly</p> <p>9 configure it? Did they properly</p> <p>10 execute that?</p> <p>11 Q. Okay. Moving on to</p> <p>12 paragraph 19, state: The SLA County --</p> <p>13 (Reporter clarification.)</p> <p>14 BY MR. FREY:</p> <p>15 Q. It says:</p> <p>16 "The SLA County of Los Angeles'</p> <p>17 VSAP Tally 2.1 software test report</p> <p>18 for California that is posted on the</p> <p>19 California Security of State's VSAP</p> <p>20 web page as County of Los Angeles'</p> <p>21 VSAP 2.1 consultant software report is</p> <p>22 limited to the Tally 2.1 software and</p> <p>23 does not address the Smartmatic BMD</p> <p>24 testing or the testing of any other</p> <p>25 VSAP component."</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**153-156**

<p style="text-align: right;">Page 153</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. What's the relevance of that</p> <p>4 statement?</p> <p>5 A. So they had this software</p> <p>6 testing report up there but it was only a</p> <p>7 sliver or small subcomponent of the actual</p> <p>8 software system.</p> <p>9 So while they have that up</p> <p>10 there, just the tally software was addressed,</p> <p>11 and any software that was contained on any of</p> <p>12 the other components were not part of that</p> <p>13 report.</p> <p>14 Q. Okay. So in that particular</p> <p>15 report, it was limited to the tally software?</p> <p>16 A. Correct.</p> <p>17 Q. And did you look at the --</p> <p>18 listed in number I of your report, on 13-I --</p> <p>19 the Consultant Security and</p> <p>20 Telecommunications Testing Report?</p> <p>21 A. Yes.</p> <p>22 Q. And to the extent that that</p> <p>23 included the BMD and other components, would</p> <p>24 that ameliorate your concern in paragraph 19?</p> <p>25 A. Probably not. If I recall that</p>	<p style="text-align: right;">Page 155</p> <p>1 Q. And that was the components of</p> <p>2 the systems we discussed this morning?</p> <p>3 A. That's correct.</p> <p>4 Q. And is it correct that, I</p> <p>5 believe for the Maricopa County system, you</p> <p>6 had pretty much the whole system, right?</p> <p>7 A. Yes.</p> <p>8 Q. But the other four, you were</p> <p>9 only looking at pieces of the whole election</p> <p>10 system in those jurisdictions, right?</p> <p>11 A. That's correct. In all of</p> <p>12 those jurisdictions, I had what I call kind</p> <p>13 of the brains of the system, which is the</p> <p>14 election management system or the EMS. And</p> <p>15 then I had differing components that I was</p> <p>16 able to analyze.</p> <p>17 Q. And you yourself collected the</p> <p>18 Maricopa County system, but I believe other</p> <p>19 individuals had imaged or collected the</p> <p>20 systems in Antrim County, Michigan; Adams</p> <p>21 County, Michigan; Coffee County, Georgia, and</p> <p>22 the other Georgia system; is that right?</p> <p>23 A. Arizona, Michigan, Georgia,</p> <p>24 yes. Those were -- Arizona, I did the actual</p> <p>25 collection or people under my direct</p>
<p style="text-align: right;">Page 154</p> <p>1 document -- and I don't have that in front of</p> <p>2 me right now -- that was primarily concerned</p> <p>3 with the network traffic from these devices.</p> <p>4 Q. Moving on to paragraphs 20 and</p> <p>5 21, these are the paragraphs where you're</p> <p>6 kind of relying on your work prior to this</p> <p>7 litigation; is that right?</p> <p>8 A. Yeah. So these two paragraphs</p> <p>9 were designed to provide a kind of a</p> <p>10 visualization of the state of insecurity for</p> <p>11 the existing voting systems that I have had</p> <p>12 the opportunity to analyze.</p> <p>13 There's a misperception out</p> <p>14 there that because the EAC in this case -- or</p> <p>15 the certification body for those other</p> <p>16 systems -- because those are certified, then</p> <p>17 they are secure.</p> <p>18 And that is a very drastic</p> <p>19 misconception, because there are very serious</p> <p>20 cyber security issues with those systems as</p> <p>21 they exist.</p> <p>22 Q. Okay. And again, so that's a</p> <p>23 -- that's the voting systems you've analyzed</p> <p>24 from Arizona, Michigan and Georgia, correct?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 156</p> <p>1 supervision collected that, and the others</p> <p>2 were provided to me in the form of forensics</p> <p>3 images that had been collected by other</p> <p>4 parties.</p> <p>5 Q. In at least three of those</p> <p>6 instances, the person who had performed the</p> <p>7 collection was at least alleged to have done</p> <p>8 so without authorization, right?</p> <p>9 A. Well, people make a lot of</p> <p>10 allegations. As I looked at what I knew of</p> <p>11 the chain of custody path, I felt confident</p> <p>12 that in all cases, the local election</p> <p>13 officials had authorized those collections,</p> <p>14 and that the people were authorized to make</p> <p>15 those collections. In the case of Antrim</p> <p>16 County --</p> <p>17 (Cross talk.)</p> <p>18 (Reporter clarification.)</p> <p>19 THE WITNESS: In the case of</p> <p>20 Antrim County, they actually had a</p> <p>21 court order to perform that imaging</p> <p>22 process.</p> <p>23 BY MR. FREY:</p> <p>24 Q. Right. For Antrim County and</p> <p>25 then in Maricopa County, you had the</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**157-160**

<p style="text-align: right;">Page 157</p> <p>1 subpoena, correct?</p> <p>2 A. Correct.</p> <p>3 Q. So I am thinking about the</p> <p>4 other three, was the focus of my question</p> <p>5 there.</p> <p>6 A. Yeah, in the -- in those other</p> <p>7 cases, there was implicit authorization by</p> <p>8 the County clerks who were the election</p> <p>9 officials for that collection or for that</p> <p>10 imaging to occur.</p> <p>11 Q. And I guess my question is, the</p> <p>12 person who did the collection was not you,</p> <p>13 nor under your supervision in those three</p> <p>14 instances, right?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. So now looking at 20 in</p> <p>17 particular, you discussed this CISA Best</p> <p>18 Practices For Securing Election Systems,</p> <p>19 dated November 2022, right?</p> <p>20 A. Correct.</p> <p>21 Q. And you last reviewed it</p> <p>22 September 21st, which is the date before your</p> <p>23 declaration. And I'm assuming -- you checked</p> <p>24 to make sure it didn't change and that it was</p> <p>25 the same?</p>	<p style="text-align: right;">Page 159</p> <p>1 forensics images that are preserved. For</p> <p>2 example, in Arizona, the installation date</p> <p>3 for the Dominion software on their systems</p> <p>4 was, I believe the 6th of August of 2019.</p> <p>5 From that day forward, there was not a single</p> <p>6 system patch that was applied to that</p> <p>7 computer or to those computers.</p> <p>8 From that day forward, there</p> <p>9 was not a single update to the antivirus</p> <p>10 software definition.</p> <p>11 The number of vulnerabilities</p> <p>12 that were created between the time they</p> <p>13 installed that software and the time that I</p> <p>14 imaged that system was, well, roughly about a</p> <p>15 million vulnerabilities a day were created.</p> <p>16 So you can do the math.</p> <p>17 We imaged those systems in</p> <p>18 April of 2021, so you're talking 700 million</p> <p>19 -- at least -- vulnerabilities that existed</p> <p>20 out in the wild, that these systems would not</p> <p>21 have prevented.</p> <p>22 Q. So you are looking at the</p> <p>23 Arizona system there to say that they do not</p> <p>24 comply.</p> <p>25 Anything else?</p>
<p style="text-align: right;">Page 158</p> <p>1 A. Correct. Yes. I do have</p> <p>2 knowledge that that web link now is changed</p> <p>3 to a different link, sometime after that</p> <p>4 point in time.</p> <p>5 But if you do a search for the</p> <p>6 best practices for securing election systems,</p> <p>7 you'll find the proper link.</p> <p>8 Q. And then you say that there is</p> <p>9 recommendations in, it looks like A to H</p> <p>10 areas, right? So --</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And it looks like you</p> <p>13 say what the area is, and then note whether</p> <p>14 the systems you looked at were in compliance</p> <p>15 or not in compliance?</p> <p>16 A. Yes.</p> <p>17 Q. Is that accurate?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So the first software</p> <p>20 and patch management, you say, the analyzed</p> <p>21 election systems do not comply, right?</p> <p>22 A. Correct.</p> <p>23 Q. And what is the evidence that</p> <p>24 they do not comply, I guess?</p> <p>25 A. So the evidence stems from the</p>	<p style="text-align: right;">Page 160</p> <p>1 A. Well, it's not only the Arizona</p> <p>2 system. It was every system that I could</p> <p>3 get, that I actually physically analyzed a</p> <p>4 forensics image on. And it was the same</p> <p>5 situation across the board.</p> <p>6 Q. And that was the five we've</p> <p>7 talked about, right? When we're talking</p> <p>8 about the analyzed election systems, it's</p> <p>9 those five jurisdictions from Arizona,</p> <p>10 Michigan and Georgia, right?</p> <p>11 A. And Colorado, so the --</p> <p>12 Q. And Colorado, yeah.</p> <p>13 A. Yeah. The one exception to</p> <p>14 that in this case is, I didn't get a physical</p> <p>15 image of the Adams County Township. If you</p> <p>16 remember, I stated my scope, and it was not</p> <p>17 the actual physical examination of a</p> <p>18 forensics image on that.</p> <p>19 Q. And for this definition of</p> <p>20 analyzed election systems, that does not</p> <p>21 include LA County, correct?</p> <p>22 A. That's correct. As of yet, I</p> <p>23 have not been able to analyze a single system</p> <p>24 that was utilized in the 2020 election in LA</p> <p>25 County.</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

161-164

<p style="text-align: right;">Page 161</p> <p>1 Q. And that is the same for all of</p> <p>2 A through H, correct? That -- the analyzed</p> <p>3 election systems you refer to in your report</p> <p>4 do not include LA County?</p> <p>5 A. Yes. Basically, this shows a</p> <p>6 pattern within the voter jurisdictions -- the</p> <p>7 voting jurisdictions -- of a lack of</p> <p>8 attention to detail to cyber security.</p> <p>9 I would welcome the opportunity</p> <p>10 to examine an LA County system to see if that</p> <p>11 pattern continues into LA County.</p> <p>12 Q. And so if we take out Adams</p> <p>13 County or Adams Township, there are four</p> <p>14 jurisdictions that you've reviewed, right?</p> <p>15 A. Correct.</p> <p>16 Q. Do you know how many voting</p> <p>17 jurisdictions there are in the United States?</p> <p>18 A. I don't. I'm obviously limited</p> <p>19 by the opportunities that are presented to me</p> <p>20 to look at. I would love to look at every</p> <p>21 single one.</p> <p>22 Q. Do you know -- do you have an</p> <p>23 approximation of how many voting</p> <p>24 jurisdictions there are in the United States?</p> <p>25 A. I don't.</p>	<p style="text-align: right;">Page 163</p> <p>1 asked.</p> <p>2 Q. And so in that case, I have to</p> <p>3 ask you for each one here so we can</p> <p>4 understand what your testimony is going to be</p> <p>5 -- because it's not listed in the report and</p> <p>6 we don't have the system. So I need to</p> <p>7 understand, you know, the testimony you're</p> <p>8 going to be providing.</p> <p>9 So we'll move onto item B, log</p> <p>10 management. You say the analyzed election</p> <p>11 systems do not comply with CISA</p> <p>12 recommendations.</p> <p>13 What is basis for that</p> <p>14 statement?</p> <p>15 A. Well, there's two aspects to</p> <p>16 that: One, the CISA recommendation</p> <p>17 recommends that you use an aggregated logging</p> <p>18 source. So in some technologies, it's called</p> <p>19 a SEIM, S-E-I-M.</p> <p>20 And basically, what that</p> <p>21 prevents is the changing of logs by</p> <p>22 intruders. So logging itself is conducted,</p> <p>23 both by the application and by the operating</p> <p>24 system itself on these logging systems.</p> <p>25 In the case of the analyzed</p>
<p style="text-align: right;">Page 162</p> <p>1 Q. If it was over 10,000, would</p> <p>2 that surprise you?</p> <p>3 A. No.</p> <p>4 Q. As a cyber security analyst and</p> <p>5 a scientist, do you think that 4 out of over</p> <p>6 10,000 is enough to make a determination as</p> <p>7 to how the jurisdictions operate in</p> <p>8 compliance with CISA recommendations as a</p> <p>9 whole?</p> <p>10 A. I would say that if you're</p> <p>11 provided the opportunity to look at 4, and</p> <p>12 100 percent of your sampling is indicative of</p> <p>13 a certain result, there is a high probability</p> <p>14 that that result will continue on through</p> <p>15 other jurisdictions.</p> <p>16 Q. And those four opportunities</p> <p>17 were brought to you, correct?</p> <p>18 A. They were part of my</p> <p>19 engagements as an expert witness, yes.</p> <p>20 Q. At trial in this matter, are</p> <p>21 you intending to provide testimony with</p> <p>22 examples as to how each of these four</p> <p>23 analyzed election systems do not comply with</p> <p>24 the various CISA recommendations?</p> <p>25 A. I am prepared to do so, if</p>	<p style="text-align: right;">Page 164</p> <p>1 systems, which we have discussed, the</p> <p>2 voting -- or the operating system logs were</p> <p>3 set to 20 megabytes of data retention.</p> <p>4 Well, in a big county with lots</p> <p>5 of activity, that is not enough space to</p> <p>6 store all of the logs covering an election</p> <p>7 time period from October through November,</p> <p>8 right?</p> <p>9 And so logs are overwritten,</p> <p>10 logs are no longer there, and there is no</p> <p>11 independent storage of those logs to preserve</p> <p>12 that data.</p> <p>13 And that is one of the CISA</p> <p>14 recommendations, is that you have an</p> <p>15 independent storage of those logs. And that</p> <p>16 could be part -- part of that Air Gap system,</p> <p>17 but they want you to store those logs</p> <p>18 independently from the systems that generate</p> <p>19 them.</p> <p>20 It's a common hacker tactic</p> <p>21 that if you do get access to a system, you</p> <p>22 know when you accessed it, you know when you</p> <p>23 left it, and you can wipe and delete all</p> <p>24 activities in those logs during those time</p> <p>25 periods with a very simple power shelf</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

165-168

<p style="text-align: right;">Page 165</p> <p>1 script. And that's a common tactic,  2 technique, and procedure for hacking and  3 unauthorized activity.  4 So the CISA is recommending:  5 One, that you have larger log sizes; and two,  6 that those logs, as soon as they are created,  7 are then sent to an independent storage  8 device, separate from the device that created  9 them.  10 None of these systems had any  11 -- any independent storage device for  12 analysis or just storage, and they were all  13 set to 20 megabytes, which was not sufficient  14 to record the data for the election time  15 period.  16 Q. And that was each of the four  17 jurisdictions where you had the full data?  18 A. That's correct.  19 Q. So network segmentation, you  20 note that the systems partially comply with  21 CISA recommendations.  22 Is -- what do you mean by,  23 "they partially comply"?  24 A. So, in the four analyzed  25 systems, they did make an attempt to Air Gap</p>	<p style="text-align: right;">Page 167</p> <p>1 Q. That particular one.  2 At a higher level, there has  3 been disagreement with what your analysis  4 showed from the entities that actually had  5 the opportunity to review the same data as  6 you, correct?  7 A. Well, that's a misnomer. They  8 didn't review the same data as I did. They  9 didn't review the forensics images.  10 They did not review the same  11 devices that were present in the network at  12 the time that the election occurred. So they  13 did not look at the same data that I did.  14 Q. Did -- in the Coffee County,  15 Georgia data that you looked at, was there an  16 opposing party who also did a review?  17 A. Not as of yet -- at least, I  18 haven't seen a report yet.  19 Q. How about in Antrim County,  20 Michigan?  21 A. J. Alex Halderman provided a  22 report, but that was more geared towards the  23 effects on the database and the election  24 definitions than the actual findings for  25 cyber security pieces. In the Curling case,</p>
<p style="text-align: right;">Page 166</p> <p>1 the election network. But the second part of  2 that is that you have to monitor those  3 networks to ensure that no unauthorized  4 device is present on the Air Gap system, and  5 none of those systems had any monitoring of  6 the network activity on those systems.  7 Q. And how do you know that?  8 A. From my analysis. So they did  9 not -- in order to monitor that, they would  10 have either had to have: A, an independent  11 device that was off of the one of the port  12 switches or resident inside of the network;  13 or they would have had to have had an onboard  14 PCAP collector like Wire Shark that would  15 capture that network traffic.  16 They did not have either of  17 those in any of those four networks.  18 Q. And am I correct that in the  19 case of at least Maricopa County, the  20 opposing party to you in the litigation  21 disagreed with your findings, right? -- your  22 analysis?  23 A. They disagreed with some of the  24 findings, but they did not disagree with that  25 finding.</p>	<p style="text-align: right;">Page 168</p> <p>1 he essentially agrees with my findings on  2 cyber security.  3 Q. And how about in Mesa County,  4 Colorado? Is there another party who has  5 also had the opportunity to review and  6 analyze that data and offer an opinion  7 regarding what it shows?  8 A. If there is, I have not seen  9 that.  10 Q. The next note, on D, it says,  11 "Block suspicious activity. The analyzed  12 systems do not comply."  13 Just at a high level, how do  14 the analyzed election systems not comply with  15 CISA recommendations?  16 A. I'm trying to cut down my  17 verbiage, huh? So basically, what we're  18 looking at here is, it's called an IDS,  19 Intrusion Detection System. And that's a  20 specific form of technology.  21 It can be hardware, it could be  22 application-based -- so that if they see a  23 variance in user activity, for example, or a  24 different device coming -- requesting a  25 remote access, then it can actually block and</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

169-172

<p style="text-align: right;">Page 169</p> <p>1 isolate that activity.</p> <p>2 From my analysis of all four of</p> <p>3 these systems, there was no such IDS</p> <p>4 technology present in the system, nor did any</p> <p>5 of these jurisdictions report that there was.</p> <p>6 Q. The next one is "Credential</p> <p>7 Management."</p> <p>8 How did the analyzed election</p> <p>9 systems not comply with CISA recommendations?</p> <p>10 A. So with the exception of one</p> <p>11 account in Coffee County, all of the user</p> <p>12 accounts on a given system for a given</p> <p>13 jurisdiction shared the same password, okay?</p> <p>14 Those passwords had not been</p> <p>15 changed since the date that the Dominion</p> <p>16 software was installed on those systems.</p> <p>17 CISA recommendations and common</p> <p>18 industry practices dictate that: One, you</p> <p>19 should change your password every 90 days;</p> <p>20 two, you should never have a shared password</p> <p>21 like that between accounts; and three, given</p> <p>22 the generic nature of these accounts, there</p> <p>23 should be some accountability and a log as to</p> <p>24 what person was assigned which account at</p> <p>25 what timeframe, okay?</p>	<p style="text-align: right;">Page 171</p> <p>1 individual end points and flag or identify</p> <p>2 if, at any time, a program was executed or</p> <p>3 loaded into memory that was not part of that</p> <p>4 scope of conformance.</p> <p>5 So the same would apply for the</p> <p>6 network, okay? So once again, if you're</p> <p>7 doing a network baseline monitoring, the</p> <p>8 county knows every single MAC address for</p> <p>9 every single system that is on that</p> <p>10 particular network.</p> <p>11 Those MAC addresses then become</p> <p>12 the baseline for all of your network</p> <p>13 communications. If any device would come on</p> <p>14 to that network that was not one of those MAC</p> <p>15 addresses, then it would flag and alert, and</p> <p>16 it would stop that activity. In none of</p> <p>17 those systems did any of that capability</p> <p>18 exist.</p> <p>19 And as a matter of fact,</p> <p>20 specific to Arizona, there were over 1,400</p> <p>21 executable files and device drivers that were</p> <p>22 created or modified after the date that the</p> <p>23 software was installed. So it was clear that</p> <p>24 there was no monitoring of that function.</p> <p>25 Q. Okay. And again, that's your</p>
<p style="text-align: right;">Page 170</p> <p>1 None of those -- none of those</p> <p>2 items were present. None of those items were</p> <p>3 ever done.</p> <p>4 And the fact that the passwords</p> <p>5 had never been changed between multiple</p> <p>6 election cycles with multiple different</p> <p>7 election workers means that there's</p> <p>8 essentially no accountability on the user</p> <p>9 access into those systems.</p> <p>10 Q. And then the last one here:</p> <p>11 "Baseline establishment for host and network</p> <p>12 activity."</p> <p>13 How did the analyzed election</p> <p>14 systems not comply with CISA recommendations?</p> <p>15 A. Again, I'll use Arizona as a</p> <p>16 prime example of this, but they were all</p> <p>17 significantly or essentially the same.</p> <p>18 So, the EAC publishes a scope</p> <p>19 of conformance. And within that scope of</p> <p>20 conformance are all of the hash values of the</p> <p>21 files for that certified election system.</p> <p>22 So a software monitoring system</p> <p>23 would take those hash values, that would</p> <p>24 become a baseline. And that capability would</p> <p>25 monitor the execution of programs on the</p>	<p style="text-align: right;">Page 172</p> <p>1 opinion based on your review of the system?</p> <p>2 A. I would say it's a present</p> <p>3 fact. But, yes -- yeah.</p> <p>4 Q. Okay. And then for G:</p> <p>5 Organization-wide IT guidance and policies,</p> <p>6 and notice and consent banners for computer</p> <p>7 systems.</p> <p>8 You found for that the analyzed</p> <p>9 selection systems did comply --</p> <p>10 A. Yes.</p> <p>11 Q. -- with those COSA</p> <p>12 recommendations, correct?</p> <p>13 A. Yes.</p> <p>14 Q. All right.</p> <p>15 MR. FREY: Let's take a quick</p> <p>16 five-minute break and we can go off</p> <p>17 the record.</p> <p>18 THE VIDEOGRAPHER: We are going</p> <p>19 off the record at 2:02 p.m.</p> <p>20 (Break taken.)</p> <p>21 THE VIDEOGRAPHER: We are back</p> <p>22 on the record at 2:09 p.m.</p> <p>23 BY MR. FREY:</p> <p>24 Q. Great.</p> <p>25 So we're back on record, Mr.</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

173-176

<p style="text-align: right;">Page 173</p> <p>1 Cotton, and we just talked through the</p> <p>2 paragraph 21 or 20 of your report.</p> <p>3 Looking now at paragraph 21, is</p> <p>4 this actually -- do the subsections in here,</p> <p>5 A to H, match up with the list that you put</p> <p>6 in paragraph 20?</p> <p>7 A. They certainly address aspects</p> <p>8 of the paragraph 20 subparagraphs, yes.</p> <p>9 Q. Okay. So in other words, like</p> <p>10 21(a) matches up with the analyzed systems</p> <p>11 not complying with software and patch</p> <p>12 management --</p> <p>13 A. Correct --</p> <p>14 Q. -- and vis a vis --</p> <p>15 A. -- but you also have the -- you</p> <p>16 know -- so we broke that down a little more</p> <p>17 in detail, so -- you know, specific to</p> <p>18 paragraphs A and B, those would pertain to</p> <p>19 the patch management software updates.</p> <p>20 Q. Okay. The lead-in sentence</p> <p>21 there, you say:</p> <p>22 "I find the following specific</p> <p>23 to the cyber security vulnerabilities</p> <p>24 and weaknesses observed in the voting</p> <p>25 systems of multiple vendors."</p>	<p style="text-align: right;">Page 175</p> <p>1 A. Correct.</p> <p>2 Q. Do you know what the operating</p> <p>3 system was for the Smartmatic machines on the</p> <p>4 VSAP program?</p> <p>5 A. Based on what I could tell from</p> <p>6 the reports and the vulnerability assessment,</p> <p>7 within the VSAP program there are SUSE Linux,</p> <p>8 there is Red Hat Linux.</p> <p>9 Also, then they bought CentOS,</p> <p>10 so those two are kind of synonymous. And</p> <p>11 there's another variant of Linux in there as</p> <p>12 well. Ubuntu is the other Linux variant</p> <p>13 that's in the -- in this report.</p> <p>14 Q. Okay. And Ubuntu is a Linux</p> <p>15 variant?</p> <p>16 A. Yes.</p> <p>17 Q. Looking at letter D on page 10,</p> <p>18 you note that none of the jurisdictions you</p> <p>19 reviewed had the capability to actively</p> <p>20 monitor programs that were running on the</p> <p>21 computers, monitor network activity, or had a</p> <p>22 process to alert election officials if a</p> <p>23 deviation from an approved baseline occurred,</p> <p>24 right?</p> <p>25 A. That is correct. And I am</p>
<p style="text-align: right;">Page 174</p> <p>1 When you say, "multiple</p> <p>2 vendors" there, who are you referring</p> <p>3 to?</p> <p>4 A. Well, primarily Dominion.</p> <p>5 Q. And similar to what we talked</p> <p>6 about with paragraph 20, this would not</p> <p>7 include Smartmatic; is that correct?</p> <p>8 A. That's correct. I have not had</p> <p>9 the opportunity to physically examine a</p> <p>10 Smartmatic system yet.</p> <p>11 Q. So I'm not going to go through</p> <p>12 each and every one of these, but I want to</p> <p>13 talk about 21(b), "Failure to patch and</p> <p>14 maintain operating system security."</p> <p>15 You note that, based on your</p> <p>16 personal knowledge, "Companies that develop</p> <p>17 operating system software such as Windows,</p> <p>18 Linux, and Apple release software that</p> <p>19 contains unknown remote access</p> <p>20 vulnerabilities," right?</p> <p>21 A. Yes.</p> <p>22 Q. And then you talk specifically</p> <p>23 about Microsoft, which was the developer of</p> <p>24 the Windows family of software for the</p> <p>25 Dominion voting systems, right?</p>	<p style="text-align: right;">Page 176</p> <p>1 speaking about, in terms of once the system</p> <p>2 is booted up and running, at that point,</p> <p>3 there was no alerting mechanism during the</p> <p>4 operation or the execution of a vote time</p> <p>5 period.</p> <p>6 Q. Are you --</p> <p>7 A. There are some of these systems</p> <p>8 that attempt do a secure boot-load. I do</p> <p>9 know that the VSAP is one of those, in which</p> <p>10 it will look at the boot-loader through, I</p> <p>11 believe they are using Grub2 to try to ensure</p> <p>12 that what is being loaded is what's supposed</p> <p>13 to be loaded.</p> <p>14 However, I didn't see any</p> <p>15 indication in the documentation that once</p> <p>16 that is loaded, there were anything -- any</p> <p>17 programs, any alerts that would identify a</p> <p>18 rogue program, say that was injected through</p> <p>19 memory, whether or not that would be</p> <p>20 detected. I didn't see any alerting</p> <p>21 mechanism for that.</p> <p>22 Q. Are you aware of network</p> <p>23 monitoring that would be performed by various</p> <p>24 government agencies and jurisdictions in the</p> <p>25 course of the 2020 election?</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

177-180

<p style="text-align: right;">Page 177</p> <p>1 A. Well, if you have an Air Gap  2 system, then they wouldn't be monitoring that  3 Air Gap system because they can't connect to  4 it.  5 So I am aware of CISA's efforts  6 through the Albert sensors and things to  7 monitor activity within the election's  8 jurisdictions.  9 However, the Catch-22 is, if  10 it's truly Air Gapped -- because the Albert  11 sensors require Internet connection over  12 public Internet to report -- if it's truly  13 Air Gapped, then they can't monitor. So --  14 but I am aware of some of those efforts.  15 Q. And are you aware that in LA  16 County, they had the Elections Security  17 Operations Center set up to monitor the  18 security of the VSAP networks?  19 A. Well, once again, then it  20 wasn't an Air Gap system. Because the -- I'm  21 sure that the operation center was not  22 located in the voting center where these  23 systems were housed.  24 Q. Did you, I guess, analyze the  25 role of the Election Security Operations</p>	<p style="text-align: right;">Page 179</p> <p>1 integrity of that air gap. So while you  2 might have a card swipe to get access into  3 the door, there's such a thing as insider  4 threat.  5 There's also typically seasonal  6 workers for these election events, and any  7 one of them could bring in a hockey puck or a  8 device, and bypass the Air Gap within a  9 matter of a couple of minutes.  10 Q. And if the machines are not  11 connected to one another, would that attack  12 only impact one machine? Or would it impact  13 more than that?  14 A. So the bypassing of an Air  15 Gapped system would effect all systems that  16 are contained within the same network segment  17 that the device was implanted into.  18 So in the case of Maricopa  19 County, for example, they supposedly Air  20 Gapped all of their systems. But all those  21 systems were on the same routing space within  22 that Air Gap system.  23 So in that case, if you  24 compromised one of those end points or the  25 router, then you would have compromised the</p>
<p style="text-align: right;">Page 178</p> <p>1 Center in connection with your opinions in  2 this case?  3 A. Well, I can't tell you or  4 detail the full scope of what they did.  5 But I can tell, just from a  6 technical means, that if they're trying to  7 monitor the network of an Air Gap system,  8 then by definition, they would have to have a  9 connection into the Air Gap system, which  10 would mean it's no longer Air Gapped.  11 Q. Looking at 21(f), page 13, you  12 discuss network segmentation, correct?  13 A. Yes.  14 Q. And the idea here is that an  15 Air Gap can be overcome; is that right?  16 A. Rather easily actually, yes.  17 Q. And is the -- I guess, are you  18 aware of physical protections that were put  19 in place in LA County with respect to the  20 protection of the BMDs and access to those  21 machines?  22 A. I am not aware of the physical  23 protections that were put in place. But  24 without monitoring of that Air Gap system,  25 there's no assurance that there is actually</p>	<p style="text-align: right;">Page 180</p> <p>1 entire Air Gap network.  2 Q. And were you able to perform  3 this analysis as it relates to LA County?  4 A. I have not been afforded that  5 opportunity yet. I would welcome the  6 opportunity.  7 Q. In the next, section G, you  8 discuss the BMG network is not truly air  9 gapped.  10 Do you see that?  11 A. Yes.  12 Q. And on the next -- or I guess  13 it's the fourth line, you discuss that remote  14 voting sites exist in the Amazon cloud,  15 right?  16 A. Correct.  17 Q. And is that based on the same  18 portion of the ATSEC report and the user  19 manual that you discussed earlier, where it  20 talks about the ISB being on the Amazon web  21 servers?  22 A. Yes. And in particular, in  23 this device. So you've got ballot-marking  24 devices. Those ballot-marking devices have  25 to obtain the actual ballot image from</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**

**181-184**

<p style="text-align: right;">Page 181</p> <p>1 someplace, and that appears to be the IBG --</p> <p>2 or the IPB, which is in the Amazon cloud.</p> <p>3 Q. That's your understanding of</p> <p>4 it, correct?</p> <p>5 A. That's my understanding of it.</p> <p>6 And then of course, the BMG is the manager</p> <p>7 for all of the ballot-marking devices, so it</p> <p>8 has to be connected to the ballot-marking</p> <p>9 devices.</p> <p>10 Q. Are you familiar with the term</p> <p>11 "software independence"?</p> <p>12 A. That can be used in a number of</p> <p>13 different meanings.</p> <p>14 If you could define that?</p> <p>15 Q. Sure.</p> <p>16 In the context of voting</p> <p>17 technology in particular, are you familiar</p> <p>18 with the term "software independence" to mean</p> <p>19 that the outcome of the election is</p> <p>20 independent of how the software might</p> <p>21 operate?</p> <p>22 A. I understand the term.</p> <p>23 However, in practice, there is question to</p> <p>24 that.</p> <p>25 And so the software is</p>	<p style="text-align: right;">Page 183</p> <p>1 gave there, you say "manipulation of the vote</p> <p>2 record."</p> <p>3 Are you talking about</p> <p>4 manipulation of the paper ballot, itself?</p> <p>5 A. Well, a ballot-marking device</p> <p>6 produces the ballot. That becomes the paper</p> <p>7 record. So if there's a manipulation prior</p> <p>8 to the production of that paper ballot, then</p> <p>9 that's what I am referring to.</p> <p>10 Q. Okay. And that would be before</p> <p>11 the voter had the opportunity to look at</p> <p>12 their ballot?</p> <p>13 A. No. Typically -- well, it</p> <p>14 depends on the system and how the -- how this</p> <p>15 works. But typically, there is a</p> <p>16 verification splice screen that pops up, and</p> <p>17 they look through the vote selections and</p> <p>18 they say, Yeah, that's what I voted. And</p> <p>19 they press a button, and then that becomes</p> <p>20 committed to paper.</p> <p>21 Q. And do you know whether the --</p> <p>22 at least with respect to the VSAP system in</p> <p>23 2020, whether the voter would then be able to</p> <p>24 review that paper?</p> <p>25 A. I would have to review the</p>
<p style="text-align: right;">Page 182</p> <p>1 primarily responsible for the presenting of</p> <p>2 the ballot, the recording of the ballot, and</p> <p>3 the counting of the ballot.</p> <p>4 So then you're relying on</p> <p>5 external audit mechanisms to attempt to</p> <p>6 determine statistically whether or not the</p> <p>7 election is valid.</p> <p>8 However, those audits are based</p> <p>9 on the actual retained printed ballot. So</p> <p>10 just as an example, if the -- if there was a</p> <p>11 vulnerability that was introduced into the</p> <p>12 system, that between the timeframe where the</p> <p>13 voter approved his vote and the time that</p> <p>14 that vote was actually recorded, if there was</p> <p>15 a vulnerability that allowed the manipulation</p> <p>16 of that vote record, then a limited-risk</p> <p>17 audit would never catch it, because you're</p> <p>18 looking at the modified ballots as the basis</p> <p>19 of your limited risk audit. I mean, that's</p> <p>20 just an example.</p> <p>21 So I understand the term. The</p> <p>22 true software independence, I believe, would</p> <p>23 be only valid if there was absolute cyber</p> <p>24 security assurance on the voting system.</p> <p>25 Q. And in the example you just</p>	<p style="text-align: right;">Page 184</p> <p>1 procedures. I am not familiar with that.</p> <p>2 Q. And we've talked some about</p> <p>3 post-election audits, risk-limiting audits.</p> <p>4 How familiar are you with the</p> <p>5 different audits conducted following the</p> <p>6 presidential election?</p> <p>7 A. Just a top level familiarity of</p> <p>8 it.</p> <p>9 Q. Did you do any analysis of the</p> <p>10 audits conducted in LA County on the</p> <p>11 November 2020 election?</p> <p>12 A. I did not.</p> <p>13 Q. And so do your opinions in any</p> <p>14 way take into account the post-election</p> <p>15 audits that would occur after a presidential</p> <p>16 election?</p> <p>17 A. Well, with the scope of my</p> <p>18 report, there's no impact. You know, the</p> <p>19 audits have no impact as to the findings in</p> <p>20 my report.</p> <p>21 Q. And that's because your report</p> <p>22 is just identifying that vulnerabilities</p> <p>23 exist -- or could exist in the software,</p> <p>24 right?</p> <p>25 A. That's correct. Yes, should I</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

185-188

<p style="text-align: right;">Page 185</p> <p>1 be provided with the opportunity to examine</p> <p>2 an actual voting device, and I have findings</p> <p>3 within that.</p> <p>4 Then I obviously would take</p> <p>5 into account any audits or risk-limiting</p> <p>6 audits that occurred after the election.</p> <p>7 Q. And in terms of the procedural</p> <p>8 safeguards of those audits being in place,</p> <p>9 that doesn't impact your analysis?</p> <p>10 A. No.</p> <p>11 Q. Just a few more questions for</p> <p>12 you.</p> <p>13 In your opinion, Mr. Cotton,</p> <p>14 was Joseph Biden legitimately elected</p> <p>15 president of the United States in</p> <p>16 November 2020?</p> <p>17 A. Congress certified him as the</p> <p>18 president, and he is the President of the</p> <p>19 United States.</p> <p>20 Q. In your opinion, was the 2020</p> <p>21 presidential election a free and fair</p> <p>22 election?</p> <p>23 A. I think that there are some</p> <p>24 technical challenges that need to be</p> <p>25 addressed. I would love to see the Courts</p>	<p style="text-align: right;">Page 187</p> <p>1 A. I am a forensics examiner, I</p> <p>2 deal with facts. I haven't even had the</p> <p>3 opportunity to look at a Smartmatic</p> <p>4 ballot-marking device or any other device, so</p> <p>5 I have no opinion on that.</p> <p>6 Q. Do you believe that Smartmatic</p> <p>7 software or algorithms manipulated vote</p> <p>8 counts in the 2020 presidential election?</p> <p>9 A. Once again, I haven't been able</p> <p>10 to examine a Smartmatic, so I have no opinion</p> <p>11 on that.</p> <p>12 MR. FREY: Give me three</p> <p>13 minutes just to go back over my notes</p> <p>14 and make sure I didn't miss anything.</p> <p>15 THE VIDEOGRAPHER: We are going</p> <p>16 off the record at 2:29 p.m.</p> <p>17 (Break taken.)</p> <p>18 THE VIDEOGRAPHER: We are back</p> <p>19 on record at 2:31 p.m.</p> <p>20 BY MR. FREY:</p> <p>21 Q. Mr. Cotton, in looking at my</p> <p>22 notes, there's just one item you mentioned</p> <p>23 earlier today that I wanted to address. And</p> <p>24 that is that you said you became aware</p> <p>25 recently of a data from the LA County</p>
<p style="text-align: right;">Page 186</p> <p>1 address those to restore confidence by the</p> <p>2 voters in the election process.</p> <p>3 Q. Do you believe that vote</p> <p>4 machines were used to rig the 2020</p> <p>5 presidential election in favor of</p> <p>6 President Biden over former President Trump?</p> <p>7 A. I have not been able to examine</p> <p>8 enough evidence to really arrive at a</p> <p>9 determination for that. There are</p> <p>10 significant discrepancies in Arizona that,</p> <p>11 you know, should be addressed. But Joe Biden</p> <p>12 is our president.</p> <p>13 Q. Do you believe or are you aware</p> <p>14 of any evidence that Smartmatic owns</p> <p>15 Dominion?</p> <p>16 A. I'm not aware of any --</p> <p>17 anything like that.</p> <p>18 Q. Do you believe or are you aware</p> <p>19 of any evidence that Dominion is a front for</p> <p>20 Smartmatic?</p> <p>21 A. I have not conducted any</p> <p>22 analysis of the background of either company.</p> <p>23 Q. Do you believe that Smartmatic</p> <p>24 rigged the 2020 presidential election for</p> <p>25 President Biden over former President Trump?</p>	<p style="text-align: right;">Page 188</p> <p>1 election going to China through this company,</p> <p>2 Konnech.</p> <p>3 Do you recall that?</p> <p>4 A. I do.</p> <p>5 Q. And when did you become aware</p> <p>6 of that information?</p> <p>7 A. Approximately six months ago.</p> <p>8 Q. I'm going to introduce as</p> <p>9 Exhibit 709, a New York Times article that I</p> <p>10 believe might be the subject matter you're</p> <p>11 referring to.</p> <p>12 (Exhibit No. 709 marked for</p> <p>13 identification.)</p> <p>14 BY MR. FREY:</p> <p>15 Q. Whenever you get a chance, let</p> <p>16 me know when you have that.</p> <p>17 A. I have it.</p> <p>18 Q. Do you see this is a New York</p> <p>19 Times article, dated October 13, 2022,</p> <p>20 titled, "Election Firm Knew Data Had Been</p> <p>21 Sent to China, Prosecutors Say"?</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And you can take a second to</p> <p>25 review this article if you want, but my</p>



**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

189-192

<p style="text-align: right;">Page 189</p> <p>1 question is:</p> <p>2 Is this the kind of allegation</p> <p>3 that you were referring to earlier in your</p> <p>4 testimony?</p> <p>5 A. Yes.</p> <p>6 Q. So this says on page 2, it says</p> <p>7 the company -- at the top of page 2, it says:</p> <p>8 "When Eugene Yu's small</p> <p>9 software company signed a contract to</p> <p>10 help Los Angeles County organize poll</p> <p>11 workers for the 2020 election, he</p> <p>12 agreed to keep the worker's personal</p> <p>13 data in the United States.</p> <p>14 "But the company, Konnech,</p> <p>15 transferred personal data on thousands</p> <p>16 of the election workers to developers</p> <p>17 in China."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. So is the issue here that there</p> <p>21 was personal information of poll workers from</p> <p>22 LA County that ended up in China?</p> <p>23 A. So as it was -- as it was</p> <p>24 brought to my attention, it was not just poll</p> <p>25 workers. It was also voter rolls.</p>	<p style="text-align: right;">Page 191</p> <p>1 things which I have never, ever committed.</p> <p>2 So you know, I have a healthy skepticism on</p> <p>3 certain reported items until I actually see</p> <p>4 the data.</p> <p>5 Q. And do you have an intention to</p> <p>6 look at any underlying data or form any</p> <p>7 opinions for this case related to this</p> <p>8 Konnech activity?</p> <p>9 A. No. The only reason it even</p> <p>10 came up was the form of your question.</p> <p>11 Q. Well, thank you, Mr. Cotton,</p> <p>12 for your time today.</p> <p>13 MR. FREY: I am going to close</p> <p>14 the deposition for today, but I'll</p> <p>15 reserve the right to -- if you are</p> <p>16 able to -- if you do the forensic or</p> <p>17 the inspection of the BMD that Dr.</p> <p>18 Sherman reviewed or if you are able to</p> <p>19 produce any of the underlying</p> <p>20 information related to the machines</p> <p>21 that you've looked at, to call you</p> <p>22 back.</p> <p>23 But as of right now, I have no</p> <p>24 further questions.</p> <p>25 MR. KACHOUROFF: I have a few</p>
<p style="text-align: right;">Page 190</p> <p>1 Q. And what is your basis -- like,</p> <p>2 did you review something that said voter</p> <p>3 rolls?</p> <p>4 A. That was represented to me by</p> <p>5 an attorney.</p> <p>6 Q. If you go down to the, I guess</p> <p>7 it's the top of page 3, it says:</p> <p>8 "Los Angeles prosecutors said</p> <p>9 last week that none of Mr. Yu's or</p> <p>10 Konnech's actions had altered election</p> <p>11 results, and that they had seen no</p> <p>12 evidence of identity theft."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. And sitting here today, do you</p> <p>16 have any reason to disagree with the</p> <p>17 statements of the Los Angeles prosecutors?</p> <p>18 A. So once again, I'm really a</p> <p>19 facts guy when it comes to forensics. I</p> <p>20 haven't had the opportunity to actually</p> <p>21 review the specific data.</p> <p>22 I will tell you that, you know,</p> <p>23 if we took everything that the press reported</p> <p>24 at face value, I'd probably be locked up in</p> <p>25 bars for nefarious actions on the -- on</p>	<p style="text-align: right;">Page 192</p> <p>1 follow-ups.</p> <p>2 MR. FREY: Okay.</p> <p>3 MR. KACHOUROFF: I'll be brief.</p> <p>4 Let me make sure my camera is on.</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MR. KACHOUROFF:</p> <p>8 Q. So you talked about the cyber</p> <p>9 symposium in October of 2021, and you stated</p> <p>10 that you were -- if I remember your</p> <p>11 testimony, there were 15 to 20 experts that</p> <p>12 Mike Lindell had hired?</p> <p>13 A. Yes. I don't remember the</p> <p>14 exact number, but there was a whole -- there</p> <p>15 was a bunch.</p> <p>16 Q. And you were waiting on data,</p> <p>17 and you only received partial data?</p> <p>18 A. That's correct. I was promised</p> <p>19 additional data, and they did not produce</p> <p>20 that in time for the symposium. So I did not</p> <p>21 stick around.</p> <p>22 Q. So you left before that data</p> <p>23 came around?</p> <p>24 A. I don't know if the data ever</p> <p>25 came around. I didn't receive it. I left</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

August 08, 2024

193-196

<p style="text-align: right;">Page 193</p> <p>1 before the symposium started.</p> <p>2 Q. Do you -- in your discussions</p> <p>3 with Mike, did you ever tell him that Dennis</p> <p>4 Montgomery was a fraud?</p> <p>5 A. Not at that particular time. I</p> <p>6 grew to those conclusions over time, after</p> <p>7 some repeated attempts to look at the data</p> <p>8 and specific data to Arizona. I was using</p> <p>9 that as kind of my test sample, if you will.</p> <p>10 Because I had so much data from</p> <p>11 Arizona, I could look at MAC addresses and</p> <p>12 things like that, and I eventually came to</p> <p>13 the conclusion that he was a fraud after the</p> <p>14 symposium.</p> <p>15 Q. But that's not something you</p> <p>16 ever explicitly told to Mike?</p> <p>17 A. No.</p> <p>18 Q. The Konnech breach that we just</p> <p>19 talked about, that's a total breach versus a</p> <p>20 hack.</p> <p>21 Is there a difference between</p> <p>22 the two? Is one worse than the other?</p> <p>23 A. So a "total breach" means</p> <p>24 there's simply no limit to the amount of data</p> <p>25 that was exfiltrated.</p>	<p style="text-align: right;">Page 195</p> <p>1 government contracting from, essentially</p> <p>2 April of 2003 up until the present time.</p> <p>3 Q. In 2015, you were demonstrating</p> <p>4 a project to the -- or a product, one of your</p> <p>5 software products, to the U.S. Office of</p> <p>6 Personnel Management.</p> <p>7 Do you recall that?</p> <p>8 A. I do.</p> <p>9 Q. And during your demonstration,</p> <p>10 can you describe what you found at the Office</p> <p>11 of Personnel Management?</p> <p>12 A. So I found a breach by Chinese</p> <p>13 government into the Office of Personnel</p> <p>14 Management's servers that ultimately is</p> <p>15 estimated as the largest single breach in the</p> <p>16 history of the U.S. government.</p> <p>17 Q. And then finally, the special</p> <p>18 master's report. You were talking about how</p> <p>19 the special master got it wrong.</p> <p>20 Why didn't you file a rebuttal</p> <p>21 or file some sort of response to that?</p> <p>22 A. So by contract, I was a</p> <p>23 subcontractor to Cyber Ninjas. Cyber Ninjas</p> <p>24 was contracted to the Arizona Senate.</p> <p>25 There was a clause in the</p>
<p style="text-align: right;">Page 194</p> <p>1 A hack, typically you could put</p> <p>2 a scoping around the impacts of what was</p> <p>3 accessed, what was exfiltrated and that</p> <p>4 nature.</p> <p>5 A total breach is, you know,</p> <p>6 just that; they have the keys to the kingdom</p> <p>7 and they got everything.</p> <p>8 Q. I want to talk about your past</p> <p>9 experience. I don't know if this was</p> <p>10 covered.</p> <p>11 Do you sit on any boards, by</p> <p>12 the way, that are relevant to your</p> <p>13 experience?</p> <p>14 A. I do. I sit on the BYU Cyber</p> <p>15 Security Advisory Board for the Cyber</p> <p>16 Security Program.</p> <p>17 Q. What does "BYU" stand for?</p> <p>18 A. Brigham Young University.</p> <p>19 Q. And in 2015, I believe you were</p> <p>20 in Manassas, Virginia?</p> <p>21 A. That is correct.</p> <p>22 Q. Did you -- when you were</p> <p>23 demonstrating a product -- you were engaged</p> <p>24 in government contracting; were you not?</p> <p>25 A. Yes, I was engaged in</p>	<p style="text-align: right;">Page 196</p> <p>1 contract that gave the Arizona Senate full</p> <p>2 editorial rights on any responses, reports,</p> <p>3 et cetera, et cetera, et cetera, and they</p> <p>4 choose not to include that data in their</p> <p>5 response.</p> <p>6 Q. So you actually did write a</p> <p>7 response, but it wasn't sent to the special</p> <p>8 master?</p> <p>9 A. Correct.</p> <p>10 MR. KACHOUROFF: I have nothing</p> <p>11 further, Tim.</p> <p>12 MR. FREY: Okay. Just one</p> <p>13 follow-up, Mr. Cotton.</p> <p>14</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. FREY:</p> <p>17 Q. You were talking about the</p> <p>18 Office of Personnel Management breach, and</p> <p>19 that breach was discovered, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And that discovery was</p> <p>22 publicized, right?</p> <p>23 A. There was a lot of publicity</p> <p>24 about that. There was also confusion and</p> <p>25 cover-up, and I believe I participated in</p>

BENJAMIN COTTON  
Smartmatic USA Corp vs Michael J. Lindell

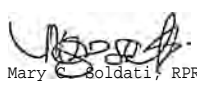
August 08, 2024

197-200

<p style="text-align: right;">Page 197</p> <p>1 three hearings before congress on that.</p> <p>2 And the OPM CIO -- finally, on</p> <p>3 the last public hearing before her</p> <p>4 resignation -- admitted that, yes, CyTech did</p> <p>5 discover the breach.</p> <p>6 Q. And that breach didn't relate</p> <p>7 to an election, right?</p> <p>8 A. It did not. But you have to</p> <p>9 understand, the breaches all hinge around</p> <p>10 unauthorized access, right?</p> <p>11 So the fact that it's an</p> <p>12 election system, quite frankly -- and to all</p> <p>13 of my election security experts -- it doesn't</p> <p>14 really make a difference, if you can get</p> <p>15 access at root-level to the underlying</p> <p>16 operating system. You've -- you will suffer</p> <p>17 a breach on that system.</p> <p>18 Q. You could suffer a breach,</p> <p>19 right?</p> <p>20 A. I would -- I would say</p> <p>21 99 percent probability that you would suffer</p> <p>22 a breach on that system.</p> <p>23 Q. Oh, I understand.</p> <p>24 You said, "If you get access to</p> <p>25 the root level," then you would suffer one?</p>	<p style="text-align: right;">Page 199</p> <p>1 Q. Are you aware that, at least</p> <p>2 Representative Elijah Cummings reported to</p> <p>3 the House Permanent Select Committee on</p> <p>4 Intelligence that the contracted engineer,</p> <p>5 Brandon Salisbury, discovered the breach?</p> <p>6 A. I'm aware that Mr. Cummings</p> <p>7 stated a lot of things. And ultimately, his</p> <p>8 aide was instrumental in getting my server</p> <p>9 back, even though they have accused me of not</p> <p>10 even participating in the investigation.</p> <p>11 So the server remained inside</p> <p>12 of OPM all the way up through the public</p> <p>13 hearings, and I didn't get that back until</p> <p>14 later.</p> <p>15 When I did get it back, they</p> <p>16 had destroyed or attempted to destroy all the</p> <p>17 data that was contained on it, but I</p> <p>18 recovered that.</p> <p>19 If you would like to review the</p> <p>20 last public hearing concerning the OPM breach</p> <p>21 prior to the CIO resigning, that large binder</p> <p>22 sitting on the desk of the chairman is all</p> <p>23 the recovered data and artifacts from that</p> <p>24 server that they returned to me.</p> <p>25 And she did admit that -- well,</p>
<p style="text-align: right;">Page 198</p> <p>1 A. Correct.</p> <p>2 Q. Okay. Oh, with respect to that</p> <p>3 OPM breach, did you discover that? Or how</p> <p>4 did that -- who made the discovery?</p> <p>5 A. I discovered it, actually. We</p> <p>6 had -- they were interested in buying the</p> <p>7 software, so we had come down to do a proof</p> <p>8 of concept. Came down, I had one of the</p> <p>9 cyber servers as part of that proof of</p> <p>10 concept.</p> <p>11 Being a government entity,</p> <p>12 there was a huge administration debt on this,</p> <p>13 so I had to get approved, they had to approve</p> <p>14 the server, and things like that. So we got</p> <p>15 the server in place that evening, I believe</p> <p>16 that was the 14th.</p> <p>17 And then on the 15th, I came</p> <p>18 back -- I had to leave because the person</p> <p>19 escorting me was going to miss their bus.</p> <p>20 And so we turned on the</p> <p>21 monitoring functions. I came back the</p> <p>22 following day, and I discovered a piece of</p> <p>23 malware disguising itself as MacAfee</p> <p>24 Antivirus on one the SQL servers that we were</p> <p>25 installed on.</p>	<p style="text-align: right;">Page 200</p> <p>1 she caveated. She said I had discovered it,</p> <p>2 but they had already found it. But you know,</p> <p>3 that atmosphere and the activities when I was</p> <p>4 in there did not indicate that they were</p> <p>5 under active breach until after I disclosed</p> <p>6 it.</p> <p>7 Q. Do you recall giving an</p> <p>8 interview to Fed Scoop in May of 2016?</p> <p>9 A. I don't.</p> <p>10 Q. Do you recall telling Fed Scoop</p> <p>11 that your company never claimed to have</p> <p>12 discovered the hack?</p> <p>13 A. What I will tell you is that I</p> <p>14 discovered the hack. We never made any</p> <p>15 public announcements of being the company</p> <p>16 that discovered it.</p> <p>17 We were contacted by the Wall</p> <p>18 Street Journal. How they knew, I don't know.</p> <p>19 And I declined to comment to the Wall Street</p> <p>20 Journal.</p> <p>21 MR. FREY: No further questions</p> <p>22 from me.</p> <p>23 MR. KACHOUROFF: Nothing</p> <p>24 further.</p> <p>25 THE VIDEOGRAPHER: Before we go</p>

**BENJAMIN COTTON**  
**Smartmatic USA Corp vs Michael J. Lindell**

**August 08, 2024**  
**201-202**

<p style="text-align: right;">Page 201</p> <p>1 off the record, Mr. Kachouroff, would  2 you like to order a copy of this video  3 today?  4 MR. KACHOUROFF: Yes, please.  5 THE VIDEOGRAPHER: This  6 concludes the video deposition of  7 Benjamin Cotton. We're going off the  8 record at 2:46 central time.  9 (Whereupon, the deposition  10 concluded at 12:38 p.m. PST)  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	
<p style="text-align: right;">Page 202</p> <p>1 CERTIFICATE  2  3 I, Mary C. Soldati, Registered Professional  4 reporter, Oregon and Washington Certified Shorthand  5 Reporter, hereby certify that at said time and place, I  6 reported in stenotype all testimony adduced and other  7 oral proceedings had in the foregoing matter; that  8 thereafter my notes were transcribed through  9 computer-aided transcription by me to the best of my  10 ability; and that the foregoing pages constitute a full,  11 true and accurate record of all such testimony adduced  12 and oral proceedings had, and of the whole thereof.  13 In witness whereof, I have hereunto set my hand  14 this 9th day of August, 2024.  15  16   17 Mary C. Soldati, RPR  18 CSR-WA No. 3406  19 Expires April 20, 2025  20 CSR-OR No. 19-0457  21 Expires September 30, 2025  22  23  24  25</p>	